

IDAHO ADMINISTRATIVE BULLETIN

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July 2, 2003 -- Volume 03-7

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Preface

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

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

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

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

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

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

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

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

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the

content of the rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a Notice of Intent to Promulgate a Rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

PROPOSED RULEMAKING

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

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

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

TEMPORARY RULEMAKING

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

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

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

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

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

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

PENDING RULEMAKING

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

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

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

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

FINAL RULEMAKING

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

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

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

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

SUBSCRIPTIONS AND DISTRIBUTION

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

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

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

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

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

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 332-1820 or FAX (208) 332-1896.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

IDAPA 38.05.01.060.02.c.ii.

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

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

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

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

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

"02." refers to Subsection 060.02.

"c." refers to Paragraph 060.02.c.

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

DOCKET NUMBERING SYSTEM

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

"DOCKET NO. 38-0501-0301"

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

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

"0301" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 2003.

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

"(BREAK IN CONTINUITY OF SECTIONS)"

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

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

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

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

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

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

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

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

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

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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2003

| Volume No. | Monthly Issue of Bulletin | Closing Date for Agency Filing | Publication Date | 21-day Comment Period End Date |
|------------|---------------------------|--------------------------------|-------------------|--------------------------------|
| 03-1 | January, 2003 | *November 13, 2002 | January 1, 2003 | January 22, 2003 |
| 03-2 | February, 2003 | January 1, 2003 | February 5, 2003 | February 26, 2003 |
| 03-3 | March, 2003 | February 5, 2003 | March 5, 2003 | March 26, 2003 |
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| 03-10 | October, 2003 | **August 20, 2003 | October 1, 2003 | October 22, 2003 |
| 03-11 | November, 2003 | October 1, 2003 | November 5, 2003 | November 26, 2003 |
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****Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

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

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THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 2003-02

TRANSFERRING THE FUNCTIONS OF THE DISABILITY DETERMINATIONS SERVICE TO THE DEPARTMENT OF LABOR, REPEALING AND REPLACING EXECUTIVE ORDER NO. 99-10

WHEREAS, a Disability Determinations Unit was established as a unit of state government within the Executive Office of the Governor on April 12, 1979; and

WHEREAS, there continues to be a need for the important services provided by the Disability Determinations Unit; and

WHEREAS, in order to be in compliance with the federal government's nomenclature, it is deemed appropriate to rename this office to be the Disability Determinations Service; and

WHEREAS, the 2020 Blue Ribbon Taskforce recommended that the Disability Determinations Service (DDS) be transferred and consolidated within the Idaho Department of Labor; and

WHEREAS, the Director of the Department of Labor has served as interim Director of the DDS since July, 2002, which has resulted in cost savings and administrative efficiencies; and

WHEREAS, the transfer of the DDS to the Idaho Department of Labor will further streamline state government and provide more efficient state services to the people of Idaho.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby transfer the Disability Determinations Service to the Idaho Department of Labor.

This Executive Order repeals and replaces Executive Order No. 99-10



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

DIRK KEMPTHORNE
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 2003-03

ESTABLISHING THE SCHEDULE FOR FLYING THE POW/MIA FLAG OVER THE CAPITOL

WHEREAS, the State of Idaho owes a lasting debt of gratitude to all heroic members of our Armed Forces who have risked their safety to defend the lives and liberty of others; and

WHEREAS, the State will not forget our Nation's prisoners of war and those missing in action (POWs/MIAs) and the devoted service they have bravely rendered to our country, and neither will the State of Idaho fail to meet its obligation to their families; and

WHEREAS, Idaho remembers those Americans who remain missing and unaccounted for as an expression of our State's determination to keep faith with those who have so faithfully served and defended the United States; and

WHEREAS, Idaho recognizes the profound suffering of those who continue to await word of the fate of their loved ones, and the State is determined to help them gain the peace and consolation that word will bring; and

WHEREAS, the POW/MIA flag symbolizes Idaho's firm and united commitment to securing the release of any Americans who may still be held against their will, to obtaining the fullest possible accounting for the missing, and to repatriation of all recoverable American remains.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

The POW/MIA flag shall be flown over the Idaho State Capitol Building on Memorial Day, Veterans Day, POW/MIA Recognition Day, Armed Forces Day, July 4th and Flag Day each year throughout the duration of my term as governor, as a symbol of the gratitude of the citizens of this state to all the men and women who are listed as missing in action, or who are or have been forcibly detained as a prisoner of war by our enemies. These persons have sacrificed and suffered much for their country while fighting for the cause of freedom.



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

DIRK KEMPTHORNE
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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 proposed rules implement the changes that were approved by the 2003 Legislative Session in HB 31, which becomes law on July 1, 2003. HB 31 was our clean up or "trailer bill" to the Uniform Accountancy Act Legislation of 2002. The 2002 legislation was a complete rewrite of the Idaho Accountancy Act. As with any major change to Idaho Code, the State Board found a series of technical corrections that needed to be made. House Bill 31 clarified intent and corrected inconsistent references.

The proposal: reiterates a license not renewed within 30 days of the deadline goes into lapsed status; requires licensees to disclose discipline taken against their license in another state; allows us to grant practice privileges to other states' licensees who were licensed in 4 of the last 10 years; uses standard wording when referring to services provided "in this state"; provides for the reinstatement of an inactive or retired license; and allows licensees to elect inactive or retired status at any time, rather than only during license renewal.

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

HB 31 was passed during the 2003 Legislative Session with an effective date of July 1, 2003. Temporary rules are necessary to implement the new facets of the law at the time the law becomes effective.

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

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 19th day of May, 2003.

Barbara R. Porter, Executive Director
Idaho State Board of Accountancy
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-0301

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

01. Renewal. Licenses shall expire on June 30 of each year. Practice privileges shall be granted through June 30 of each year provided the individual maintains an active license in good standing in his state of principle place of business. To renew, an individual must submit a renewal form and appropriate fee by the prescribed date. The renewal form shall require the individual to provide a business address and phone number, residence address and phone number, business connection or employer, whether or not the individual's work is subject to peer review, affidavit of good moral character, and other information as deemed necessary by the Board. (4-2-03)

02. Non-Renewal. Individuals choosing not to renew their license or practice privileges shall notify the Board, on the renewal form by the expiration date, of their intention. Upon such notification, the license or privileges shall be deemed lapsed. Individuals with lapsed licenses or practice privileges shall not publicly display their wall certificates, use the title CPA or LPA, or provide services that are reserved to licensees. (4-2-03)

03. Late Fee. Licenses and practice privileges renewed after July 1, but before August 1, shall be subject to the late renewal fee as prescribed in Rule 703. After August 1, ~~the Board may initiate suspension proceedings~~ any license not renewed shall be deemed lapsed and is subject to reinstatement pursuant to Section 54-2191, Idaho Code. (4-2-03)(7-1-03)T

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

Within thirty (30) days after its occurrence, a licensee or individual granted practice privileges shall notify the Board, in writing, of: (4-2-03)

01. Address Change. A change in the licensee's business address, residence address, or business connection, employer, or principal place of business; (4-2-03)

02. Felony Charge. Any felony charges; or (4-2-03)

03. Actions Taken. The issuance, denial, disciplinary action, restriction, revocation, or suspension of a certificate, license, or permit by another state or by any federal agency. (4-2-03)(7-1-03)T

303. PRACTICE PRIVILEGES (Rule 303).

01. Substantially Equivalent. An individual who holds an active license in another state, whose principal place of business is not in this state, seeking practice privileges in this state, must certify, on a form prescribed by the Board, that either: (4-2-03)

a. The individual's license is from a jurisdiction with education, examination, and experience requirements comparable to or exceeding such requirements in this state; or (4-2-03)

b. The individual licensee's education, examination, and experience qualifications are comparable to or exceed such requirements of this state; ~~or~~ (4-2-03)(7-1-03)T

c. The individual has no less than four (4) years' experience, provided the experience was obtained after original licensure as a certified public accountant and within the ten (10) years immediately preceding the practice privilege application. (7-1-03)T

02. Notice. A qualified individual seeking practice privileges in this state must comply with the notice requirement as follows: (4-2-03)

a. Notice shall be on forms prescribed by this Board providing such information as deemed necessary

by the Board; (4-2-03)

b. Notice is immediately due and shall be received by the Board within fifteen (15) days after the qualified individual knowingly avails himself of the laws of this state by either accepting an engagement or an assignment to render professional services to persons in this state, or offering to render professional services through direct solicitation or marketing targeted to persons in this state, whether or not the qualified individual physically enters this state; (4-2-03)

c. The qualified individual shall accept responsibility for compliance with the Idaho Accountancy Act and these rules; (4-2-03)

d. Notice shall include a statement from the qualified individual agreeing to notify the Board and submit a reciprocity license application if the individual moves his principal place of business to this state; and (4-2-03)

e. Notice must be accompanied by the fee prescribed in Rule 701. (4-2-03)

03. Internet Disclosures. An individual entering into an engagement to provide professional services via a web site, pursuant to practice privileges granted by Idaho, shall disclose, via their web site, their principle state of licensure, license number, and address. A firm offering or rendering professional services to Idaho businesses or residents via a web site shall provide, in the web site's homepage, a means for regulators and the public to contact a responsible licensee in charge at the firm regarding complaints, questions, or regulatory compliance. (4-2-03)

04. Exclusion. Non-resident individuals shall not be deemed to have entered this state for purposes of Section 54-227, Idaho Code and notice is not required if the individual's contact with this state is limited to any of the following activities: (4-2-03)

a. Teaching either a college or continuing professional education course; (4-2-03)

b. Delivering a lecture; (4-2-03)

c. Moderating a panel discussion; (4-2-03)

d. Rendering professional services to the individual's employers or to persons employed by the individual's employer, including affiliated, parent, or subsidiary entities, provided such services are not rendered for the employer's clients; (4-2-03)

e. Performing peer reviews for a qualified administering organization; (4-2-03)

f. Providing professional services during no more than ten (10) days cumulatively in any calendar year ~~by either accepting an engagement or an assignment to render Professional Services to persons in this state, or offering to render Professional Services through direct solicitation or marketing targeted to persons in this state, whether or not the qualified individual physically enters this state.~~ (4-2-03)(7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Exceptions And Extensions. The Board may make exceptions to the CPE requirements or grant extensions of time for completion of the CPE requirements, where reasons of health as certified by a medical doctor prevent compliance by the licensee, or other good cause exists. (4-2-03)

a. Licensees asking for exceptions or extensions under these conditions must apply annually on the reporting form for the year in which the extension or exemption is sought, and within the time period set for CPE

reporting, stating the reasons for asking for such exception or extension. Any licensee failing to file a timely application shall be subject to the late fee prescribed in Rule 703, in addition to any additional proceeding that may be instituted for violation of these rules. (4-2-03)

b. A penalty of no more than fifty percent (50%) of the hours a licensee is short in meeting the calendar year CPE requirement may be assessed for extensions. In such cases, the licensee shall be required to complete the CPE hours and any assessed penalty no later than May 31. (4-2-03)

02. Exemptions For Inactive Or Retired. Licensees who elect inactive or retired status ~~at the time of license renewal~~ shall be exempt from any CPE requirements provided that: ~~(4-2-03)~~(7-1-03)T

a. The licensees do not perform or offer to perform for the public services involving: (4-2-03)

i. The use of accounting or auditing skills including the issuance of reports on financial statements, or of management advisory, financial advisory or consulting services; or (4-2-03)

ii. The preparation of tax returns, or the furnishing of advice on tax matters as a licensee. (4-2-03)

b. Licensees granted such exemption must place the word "inactive" adjacent to their CPA or LPA title on any business card, letterhead or any other document or device. The Board shall issue a wall certificate for public display that indicates the license is inactive; (4-2-03)

c. Those individuals who are inactive and have reached sixty (60) years of age may substitute the word "retired" for the word "inactive"; (4-2-03)

d. Licensees granted the exemption as either "inactive" or "retired" shall annually pay the license renewal fee as prescribed in Rule 701; and (4-2-03)

e. Licensees granted the exemption must comply with a return to active status competency requirement as set out in Rule 510 before they may discontinue use of the word "inactive" or "retired" in association with their CPA or LPA title. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. New Licensees. A new licensee will be required to comply with the CPE requirement beginning January 1st of the calendar year following the year in which the license was granted. The new licensee shall file the annual reporting form indicating that the licensee is exempt from obtaining CPE hours during the first year of licensure. The licensee shall be required to complete a minimum of thirty (30) hours during the second calendar year of licensure. (4-2-03)

02. Reciprocity. An individual who holds a valid and unrevoked certified public accountant license issued by any state, or comparable certificate or degree issued by any foreign country, and who receives a license to practice in this state, will be required to comply with the CPE requirement beginning January 1st of the calendar year following issuance of the license. The new licensee shall file the annual CPE reporting form, indicating the licensee is exempt from obtaining CPE hours during the first year of licensure. The licensee shall be required to complete a minimum of thirty (30) hours during the second calendar year of licensure. (4-2-03)

03. Reinstatement. An individual whose license has lapsed under Rule 301 shall complete no less than eighty (80) hours of CPE during the twelve (12) months immediately prior to applying for reinstatement of an active license. The applicant shall be required to identify and complete a program of learning designed to demonstrate the currency of the applicant's competencies directly related to his area of service. An individual whose license lapsed under Rule 301 applying for reinstatement of an inactive or retired license is not required to meet a CPE requirement.

The applicant shall pay the license reinstatement fee prescribed in Rule 701 and shall have met the reinstatement requirements of Section 54-211, Idaho Code. ~~(4-2-03)~~(7-1-03)T

04. Re-Entry From Inactive Or Retired Status. A licensee, granted an exemption from the CPE requirement under Rule 502, may discontinue use of the word “inactive” or “retired” in association with the CPA or LPA title upon showing that the licensee has completed no less than eighty (80) hours of CPE during the twelve (12) months immediately prior to applying for return to active status. The licensee shall be required to identify and complete a program of learning designed to demonstrate the currency of the licensee’s competencies directly related to the licensee’s area of service. The licensee shall pay the annual license renewal fee prescribed in Rule 701. If a licensee applies for re-entry during a license period and has already paid the fee for an inactive or retired license, the licensee is required to pay the difference between the cost of an inactive or retired license and the annual license renewal fee. (4-2-03)

IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0302 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 7, 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(s) 54-204(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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 Uniform CPA Examination is a national exam, used in all 54 of the licensing jurisdictions. The exam will convert from a paper and pencil exam to a computerized exam after the November 2003 administration. This is the only method that can be used by Idaho (or any other state) to test CPA Exam candidates. Without the changes, Idaho would not be able to accept applications and provide for the CPA Exam in Idaho.

The proposal: modifies definitions to include new terminology and entities involved in the computerized CPA Exam; defines the application process, how candidates are notified of eligibility, and how to schedule the exam; defines CPA Exam content; clarifies the education requirements to sit for the CPA Exam; provides for reporting of grades, setting the passing score, granting credit, and a transition process from paper and pencil to computerized; updates cheating rules and provides a mechanism for handling security concerns; sets Idaho's administrative fee at \$100 for an original candidate (vs \$225 now) and \$50 for a re-exam candidate (vs either \$65, \$130, or \$200 now.) The test development and delivery fees are set by national organizations and the candidate must pay those fees directly.

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

The benefit is that Idaho students and employees who are pursuing a career in public accounting will be able to continue taking the CPA Examination. Without the rule changes, they could not sit for the exam. Ultimately, they could not be licensed as Certified Public Accountants.

Having CPAs is good for Idaho's economy, our job market, our businesses, and individual citizens. Licensed CPAs command higher salaries. They are better qualified to counsel businesses and individuals on financial matters than those who lack similar education, experience, and continuing professional education. The public is protected by having a state agency that licenses and regulates these individuals. The regulated accountants are held to higher standards and requirements than non-regulated accountants

If we eliminate the avenue for these educated people to become licensed, they may be forced to relocate outside of Idaho. This is a loss to our industry, economy, and our state as a whole. If they elect to stay within our state without becoming licensed, they may offer a lower level of accounting services (ones that do not require licensure.) This offers fewer options to Idaho businesses and residents, and eliminates the protection of the public that is served by having professionals licensed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The proposal sets Idaho's administrative fee at \$100 for an original candidate (vs \$225 now) and \$50 for a re-exam candidate (vs either \$65, \$130, or \$200 now.) The test development and delivery fees are set by national organizations and the candidate must pay those fees directly.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Board of Accountancy sent fliers to candidates, provided information to colleges and universities, and sent multiple newsletters on the issues.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 21st Day of May, 2003.

Barbara R. Porter, Executive Director
Idaho State Board of Accountancy
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-0302

010. DEFINITIONS (Rule 010).

The Idaho State Board of Accountancy adopts the definitions set forth in Section 54-206, Idaho Code. In addition, as used in this chapter: (4-2-03)

01. Administering Organization. An entity that has met, and at all relevant times continues to meet, the standards specified by the Board for administering peer reviews. (4-2-03)

02. Board. The Board or its designated representative. (4-2-03)

03. Candidate. Applicants approved to sit for the CPA Examination. (4-2-03)

04. CPA Examination. Uniform Certified Public Accountant Examination. (4-2-03)

05. CPE. Continuing Professional Education. (4-2-03)

06. Examination Window. The three-month period in which candidates have an opportunity to take the CPA Examination. (11-7-03)T

067. Monitoring Organization. An independent body that oversees the self-regulatory programs of the SECPS. (4-2-03)

08. NASBA. The National Association of State Boards of Accountancy. (11-7-03)T

09. National Candidate Database. The National Association of State Boards of Accountancy

- database of all CPA Examination candidates on a nationwide basis. (11-7-03)T
- ~~07~~**10.** **Oversight Committee.** The Peer Review Oversight Committee. (4-2-03)
- ~~08~~**11.** **Peer Review.** The study, appraisal or review, by a licensee who is not affiliated with the licensee or firm being reviewed, of one (1) or more aspects of the professional work of a licensee or firm that issues attest or compilation reports. (4-2-03)
- ~~09~~**12.** **Reporting Form.** CPE reporting form. (4-2-03)
- ~~10~~**3.** **SECPS.** Securities and Exchange Commission Practice Section of the AICPA. (4-2-03)
- ~~11~~**4.** **Test Delivery Service Provider.** Prometric is the contract vendor that delivers the computer-based CPA Examination. (11-7-03)T
- ~~12~~**5.** **Verification Of Employment And Experience Evaluation Form.** Work experience verification form. (4-2-03)
- ~~13~~**6.** **Year Of Review.** The calendar year during which a peer review is conducted. (4-2-03)
- ~~14~~**7.** **Year Under Review.** The twelve (12)-month period that is reviewed by the reviewers. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

100. CPA EXAMINATION (Rule 100).

An applicant must pass the CPA Examination before applying for a CPA certificate and license. The CPA Examination will be graded by the American Institute of Certified Public Accountants and is subject to review and acceptance by the Board. *The CPA examination will be held simultaneously in such places and such times as the Board may designate consistent with the dates for the CPA Examination.* (4-2-03)(11-7-03)T

101. APPLICATIONS -- AUTHORIZATION TO TEST AND NOTIFICATION TO SCHEDULE -- REQUEST TO DEFER TIME AND PLACE -- CHANGE OF ADDRESS (Rule 101).

01. Applications. *Applications must be filed at the principal office of the Board. Applications for the May CPA Examination must be filed by March 1, and for the November CPA Examination by September 1. Examination fees as prescribed in Rule 700 must be included with the application. All supporting documentation must be received by the office of the Board no later than April 1 for the May examination and October 1 for the November examination.* Applications to take the CPA Examination must be made on a form prescribed by the Board and filed with the Board office by a due date specified by the Board in the application form. An application will not be considered filed until the fee as required in Rule 700 and all required supporting documents have been received, including proof of identity as determined by the Board and specified on the application form, and official transcripts sent directly from the college or university to the Board office as proof that the applicant has satisfied the education requirement. (4-2-03)(11-7-03)T

02. Notice. *Candidates will be informed of the time and place of the CPA Examination at least thirty (30) days prior to the examination.* **Authorization To Test And Notification To Schedule.** The Board will forward notification of eligibility in the form of an Authorization to Test (ATT) to the candidate and NASBA's national candidate database. The ATT is issued for the test section(s) the candidate applied. Candidates shall pay the actual fees charged by the AICPA, the national candidate database, and the test delivery service provider directly to NASBA. Eligible candidates will receive a Notice to Schedule (NTS) for the CPA Examination from NASBA. The NTS is valid for six (6) months from the date issued. A candidate's ATT lasts as long as the NTS is valid, or until the candidate tests whichever occurs first. However, the ATT will expire ninety (90) days after it is issued if the candidate has not requested an NTS and paid the appropriate fees to NASBA. (4-2-03)(11-7-03)T

03. ~~Request To Defer.~~ ~~Candidates who have filed applications for the CPA Examination and who wish to defer the examination until a later date shall notify the Board in writing by April 15 for the May examination, and by October 15 for the November examination. A request to defer may not be applied to more than two (2) examinations in succession.~~ **Time And Place Of Examination.** Eligible candidates who have received an NTS shall independently contact a test delivery center operator identified by the Board to schedule the time and place for the examination at an approved test site. (4-2-03)(11-7-03)T

04. Change Of Address. Candidates must file a change of address with the Board within thirty (30) days of the change. (4-2-03)

102. FAILURE TO APPEAR (Rule 102).

~~If, after proper notification, a~~ candidate who fails to appear for the CPA Examination, ~~the examination fee will be forfeited unless a request to defer has been filed~~ shall forfeit all fees paid. (4-2-03)(11-7-03)T

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

The applicant must submit a written request, with supportive documentation from a physician, for special accommodations. The request must be submitted at the same time the application is submitted. The Board will respond to the applicant ~~within fifteen (15) working days prior to the examination~~ with the ATT notification. (4-2-03)(11-7-03)T

104. ~~OUT-OF-STATE APPLICANTS EXAMINATION CONTENT~~ (Rule 104).

~~Applicants who have been approved as candidates in other jurisdictions shall be allowed to write the examination in Idaho provided the request to write the examination has been authorized by the Board or officials responsible for administering the examinations in such other jurisdictions. The applicant shall remit the nonrefundable proctoring fees as prescribed in Rule 700 prior to the established deadlines. The Board will consider these applications in the order received and shall be subject to available space.~~ The CPA Examination shall test the knowledge and skills required for performance as an entry-level certified public accountant. The CPA Examination shall include the subject areas of auditing, attestation, accounting and reporting, regulation, business environment, and related knowledge and skills as the Board may require. (4-2-03)(11-7-03)T

105. EVIDENCE OF EDUCATIONAL QUALIFICATIONS (Rule 105).

01. Satisfactory Evidence. An applicants for the CPA Examination must present evidence satisfactory to the Board that the applicant ~~meets~~ has completed the requirements set forth in ~~Section 54-208(1)(e), Idaho Code~~ Subsection 105.02. (4-2-03)(11-7-03)T

02. Educational Requirements. Educational qualifications include successful completion of a baccalaureate degree or its equivalent and shall also contain thirty (30) or more semester hours (or forty-five (45) or more quarter hours) in business administration subjects of which at least twenty (20) semester hours (or at least thirty (30) quarter hours) shall be in the study of accounting subjects. Candidates have the option of demonstrating compliance with the educational requirements for licensure as specified in Rule 300. (4-2-03)(11-7-03)T

106. ~~NOTIFICATION OF DETERMINING AND REPORTING EXAMINATION GRADES~~ (Rule 106).

~~Candidates will be notified in writing of their numerical grades within ninety (90) days after completion of the examination. Public or private announcement of grades will not be made until Board members have been advised and given at least seven (7) days to consider the grades and register their exceptions. Grades determined by a majority of the members of the Board shall control.~~ A candidate shall be required to pass all test sections of the CPA Examination in order to qualify for a CPA certificate and license. Upon receipt of advisory grades from the examination provider, the Board will review and may adopt the examination grades and will report the official results to the candidate. (4-2-03)(11-7-03)T

107. PASSING GRADES (Rule 107).

A candidate shall be required to obtain a grade of seventy-five (75) or higher in each of the ~~subjects~~ four (4) test sections of the CPA Examination in order to pass the examination. Rule 107 is subject to the provisions of Rule 108. A candidate shall be deemed to have passed the CPA Examination once the candidate holds at the same time valid credit for passing each of the four (4) test sections of the examination. Credit for passing a test section of the computer-based examination is valid from the actual date of the testing event for that test section, regardless of the

date the candidate actually receives notice of the passing grade. (4-2-03)(11-7-03)T

108. ~~CONDITIONAL~~ RETAKE AND GRANTING OF CREDIT (Rule 108).

01. Credit For ~~Subjects~~ Sections Prior To Computerization Of The CPA Examination. A candidate shall be required to pass all ~~subjects~~ test sections of the CPA Examination in order to qualify for a CPA certificate and license. If, at a given sitting of the examination prior to the implementation of a computer-based CPA Examination, a candidate passes two (2) or more but not all ~~subjects~~ sections, then the candidate shall be given conditional credit for those ~~subjects~~ sections that the candidate has passed and need not sit for re-examination in those ~~subjects~~ sections, provided that: (4-2-03)(11-7-03)T

a. The candidate wrote all ~~subjects~~ sections of the examination for which the candidate does not have credit at that sitting; and (4-2-03)(11-7-03)T

b. The candidate attained a minimum grade of fifty (50) on each ~~subject~~ section not passed at that sitting. However, if a candidate passes three (3) ~~subjects~~ sections of the examination, the candidate shall be conditionally credited with the ~~subjects~~ sections passed without regard to the grade in the remaining ~~subject~~ section; (4-2-03)(11-7-03)T

c. The candidate passes the remaining sections of the CPA Examination within six (6) consecutive administrations of the CPA Examination given after the one at which the first sections were passed; and (11-7-03)T

d. At each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate sits for all sections not yet passed. (11-7-03)T

02. ~~Time Frame To Pass Remaining Subjects. The applicant must pass the remaining subjects of the examination within six (6) consecutive examinations given after the one at which the applicant earned conditional credit. The Board may extend the period in which a candidate must pass the remaining subjects, if the candidate submits satisfactory evidence that he was prevented from attendance at an examination by reason of overseas military service, disabling illness or other good cause.~~ Credit For Subjects After Computerization Of The CPA Examination. Upon implementation of a computer-based CPA Examination, a candidate may take the required test sections individually and in any order. Credit for any test section(s) passed shall be valid for eighteen (18) months from the actual date the candidate took that test section(s), without having to attain a minimum score on any failed test section(s) and without regard to whether the candidate has taken other test sections, provided that: (4-2-03)(11-7-03)T

a. Candidates must pass all four (4) test sections of the CPA Examination within a rolling eighteen-month period, which begins on the date that the first test section(s) passed is taken; (11-7-03)T

b. Candidates cannot retake a failed test section(s) in the same examination window; and (11-7-03)T

c. Candidates who do not pass all four (4) sections of the CPA Examination within the rolling eighteen-month period shall lose credit for any test section(s) passed outside the eighteen-month period and that test section(s) must be retaken. (11-7-03)T

03. ~~Subjects For Which Candidates With Conditional Credit Has Not Been Given Earned On The Paper-Based CPA Examination. Applicants are required to sit for all subjects for which conditional credit has not been given.~~ Candidates who have conditional credit on the paper-based CPA Examination as of the launch date of the computer-based CPA Examination are subject to the following transition requirements: (4-2-03)(11-7-03)T

a. Candidates will retain conditional credits from the paper-based sections for the corresponding computer-based sections as follows: (11-7-03)T

i. "Auditing" under paper-based corresponds to "Auditing and Attestation" under computer-based; (11-7-03)T

ii. "Financial Accounting and Reporting" under paper-based corresponds to "Financial Accounting

and Reporting” under computer-based; (11-7-03)T

iii. “Accounting and Reporting” under paper-based corresponds to “Regulation” under computer-based; and (11-7-03)T

iv. “Business Law and Professional Responsibilities” under paper-based corresponds to “Business Environment and Concepts” under computer-based. (11-7-03)T

b. A candidate who attained conditional credit under the paper-based examination will be allowed a transition period to complete any remaining test sections. The transition period is the maximum number of opportunities that the candidate has remaining, at the launch of the computer-based examination, to complete all remaining test sections, or three (3) years from the last day of the month conditional credit was attained, whichever is exhausted first. During the candidate’s transition period, any computer-based test section passed is not subject to the credit granting provisions of Subsection 108.02. (11-7-03)T

c. If a candidate who attained conditional credit under the paper-based examination does not pass all remaining test sections during the transition period, conditional credits earned under the paper-based examination will expire and the candidate will lose credit for the test sections earned under the paper-based examination. When paper-based credit is lost, any computer-based test section passed during the transition period becomes subject to the credit granting provisions of Subsection 108.02. (11-7-03)T

04. Extending The Term Of Credit. The Board may in particular cases extend the term of credit validity set forth in Subsections 108.02 and 108.03 upon demonstration by the candidate that the credit was lost by reason of circumstances beyond the candidate’s control. (11-7-03)T

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

An applicant may submit the results of any ~~examination of~~ test section of the CPA Examination taken by the applicant ~~on any subject covered by the CPA Examination~~ in any other state having standards at least equivalent to those of this state, and these results may be adopted by the Board in lieu of examination in this state on the same ~~subject test section~~ and in accordance with the provisions of Section 54-210, Idaho Code and these rules. ~~(4-2-03)~~(11-7-03)T

110. CHEATING (Rule 110).

01. Actions. Cheating by an applicant in applying for the CPA Examination or by a candidate in taking the CPA Examination will cause any grade otherwise earned on any part of the CPA Examination to be invalidated. Cheating may warrant summary expulsion from the examination room and disqualification from taking the CPA Examination for a specified ~~number of subsequent sittings~~ period of time. ~~(4-2-03)~~(11-7-03)T

02. Exam Site. If the Board or its representative suspects that cheating has occurred or is occurring while the CPA Examination is in progress, the Board or its representative may summarily expel the candidate from the examination. If the Board or its representative permits a candidate to continue taking the examination, it may: ~~(4-2-03)~~(11-7-03)T

a. Admonish the candidate; (4-2-03)

b. Seat the candidate in a segregated location for the rest of the examination; (4-2-03)

c. Keep a record of the candidate’s seat location and ~~identification number~~ identifying information, and the names and ~~identification numbers~~ identifying information of the candidates ~~on either side in close proximity~~ of the candidate; or ~~(4-2-03)~~(11-7-03)T

d. Notify the national candidate database, the test center, and/or the AICPA of the circumstances, ~~furnishing the candidate’s identification number~~, so that ~~after the initial grading is completed~~ the candidate’s ~~papers can be compared for unusual similarities with the papers of others who may have been involved~~ may be more closely monitored in future examination sessions. ~~(4-2-03)~~(11-7-03)T

03. Hearings. If the Board believes that it has evidence that a candidate has cheated on the examination

or a candidate has been expelled from the examination, the candidate shall be provided notice and opportunity for hearing pursuant to Rule 003. In such hearings, the Board shall decide: (4-2-03)

- a. Whether or not there was cheating, and if so what remedy should be applied; (4-2-03)
- b. Whether the candidate shall be given credit for any portion of the examination completed in that session; and (4-2-03)
- c. Whether the candidate shall be barred from taking the examination in future sittings, and if so, for how many sittings. (4-2-03)

04. Notice. If a candidate is refused credit for any ~~part~~ test section of an examination taken, disqualified from taking any ~~part of the examination~~ test section, or barred from taking the examination in the future sittings, the Board will provide information about findings and actions taken to the national candidate database and the board of any other state to which the candidate may apply for the examination. (~~4-2-03~~)(11-7-03)T

111. SECURITY AND IRREGULARITIES (Rule 111).

01. Board Action. Notwithstanding any other provisions under these rules, the board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to: (11-7-03)T

- a. A breach of examination security; (11-7-03)T
- b. Unauthorized acquisition or disclosure of the contents of an examination; (11-7-03)T
- c. Suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or (11-7-03)T
- d. For any other reasonable cause or unforeseen circumstance. (11-7-03)T

~~1172.~~ -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

700. EXAMINATION FEES (Rule 700).

01. Original Examination Application ~~And Examination~~. The original examination application and examination fee is ~~two~~ one hundred and twenty-five dollars (~~\$225~~100) regardless of the number of sections for which the candidate is applying to sit. (~~4-2-03~~)(11-7-03)T

02. Re-Examination Application. The re-examination application fee is ~~two hundred fifty~~ dollars (\$205) ~~for all parts; one hundred and thirty dollars (\$130) for two (2) parts; and sixty-five dollars (\$65) for one (1) part~~ regardless of the number of sections for which the candidate is applying to sit. (~~4-2-03~~)(11-7-03)T

~~03.~~ **Out Of State Applicant.** ~~The fee for each out-of-state applicant applying to sit for the examination in Idaho is twenty dollars (\$20) for each subject of the examination.~~ (4-2-03)

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.06.16 - CROP RESIDUE DISPOSAL RULES

DOCKET NO. 02-0616-0301 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-4801, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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 purpose of this rulemaking is to make revisions to the existing rule required by House Bill 391 passed by the 2003 Legislature. Revisions include removing the registration exemption for Kootenai and Benewah Counties, adding the requirement for payment of a one dollar (\$1) registration fee and adding a violations section, and adding the requirement to annually register all fields regardless of crop type.

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:

To comply with the new requirements of House Bill 391 passed by the 2003 Legislature. House Bill 391 was emergency legislation.

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

House Bill 391 includes a registration fee of one dollar (\$1) per acre for any fields located in the ten northern counties of Idaho to fund the Crop Residue Disposal program. The rule is being amended in Section 100 to clarify that completed registration forms shall be returned to ISDA and to add instructions regarding the submission of the registration fees to ISDA.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Curtis Thornburg, Program Manager, or Michael Cooper, Acting Administrator, at 208-332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 19th day of May, 2003.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0616-0301

100. REGISTRATION OF FIELDS TO BE BURNED.

01. **Field Registration.** All persons in Idaho ~~except in Benewah and Kootenai Counties~~ shall register each field to be burned with ISDA on an annual basis prior to burning crop residue. ~~(5-3-03)~~(7-1-03)T

02. **Registration Forms.** Approved forms for registering fields may be obtained from offices of ISDA, IDEQ, County Extension Educators or Soil Conservation District offices. A single form is required for each person, however, more than one (1) field may be listed on a single form. County, township, range, and section for each field registered must be included on the registration form. Completed forms shall be submitted to ISDA and shall include permit numbers for any burning permits issued by county, state, or federal agencies, or local fire protection authorities. ~~(5-3-03)~~(7-1-03)T

03. ~~**Perennial Crops.** It is not necessary to re-register annually each field of perennial crops to be burned after the initial registration. It shall be the responsibility of the grower to notify the ISDA when a field of perennial crop is taken out of production.~~ **Registration Fees.** All registration forms for fields located in Idaho, Lewis, Nez Perce, Clearwater, Latah, Shoshone, Benewah, Kootenai, Bonner, and Boundary counties shall be forwarded to ISDA and must be accompanied by payment of a one dollar (\$1) per acre fee. ~~(5-3-03)~~(7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

501. VIOLATIONS.

Any person violating any provisions of these rules shall be subject to the provisions of Section 22-4803A, Idaho Code. (7-1-03)T

501.2. – 799. (RESERVED).

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE
02.06.26 - RULES GOVERNING SEED POTATO CROP MANAGEMENT AREAS

DOCKET NO. 02-0626-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 30, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-2017, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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 proposed amendment will define the geographical boundaries for a new Seed Potato Crop Management Area in Blaine County.

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 reasons:

The proposed area needs to be defined and in force for the 2003 growing season.

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

No fees are being requested.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 23rd day of May, 2003.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0626-0301

020. SEED POTATO CROP MANAGEMENT AREAS.

01. Fremont Seed Potato Crop Management Area. That portion of Fremont county described as follows: Beginning at a point which is the southwest corner of Section 16, Township 7 North, Range 43 East, Boise, Meridian, Fremont County, Idaho; Thence north approximately 1 mile to the northwest corner of Section 16, Township 7 North, Range 43 East; Thence west approximately 2 miles to the southwest corner of Section 7, Township 7 North, Range 43 East; Thence north approximately 1 mile to the northwest corner of Section 7, Township 7 North, Range 43 East; Thence west approximately 3 miles to the southwest corner of Section 3, Township 7 North, Range 42 East; Thence north approximately 2 miles to the northwest corner of Section 34, Township 8 North, Range 42 East; Thence west approximately 2 miles to the southwest corner of Section 29, Township 8 North, Range 42 East; Thence north approximately 1-3/8 miles to the center line of Fall River; Thence northwest along Fall River approximately 1-1/8 miles to where Fall River intersects the west line of Section 8, Township 8 North, Range 41 East; Thence north approximately 1-7/8 miles to the northwest corner of Section 7, Township 8 North, Range 41 East; Thence west approximately 2 miles to the southwest corner of Section 2, Township 8 North, Range 41 East; Thence north approximately 1 mile to the northwest corner of Section 2, Township 8 North, Range 41 East; Thence west approximately 1/4 of 1 mile; Thence north along an existing road approximately 4 miles; Thence northeasterly along said road approximately 1-1/10 miles to the northwest corner of Section 11, Township 9 North, Range 41 East; Thence north approximately 1 mile to the northwest corner of Section 2, Township 9 North, Range 41 East; Thence east approximately 14 miles to the northeast corner of Section 1, Township 9 North, Range 43 East; Thence south approximately 2 miles to the southeast corner of Section 12, Township 9 North, Range 43 East; Thence east approximately 4 miles to the northeast corner of Section 15, Township 9 North, Range 44 East, which is the west boundary line of the Targhee National Forest; Thence south along said forest boundary approximately 3 miles to the southeast corner of Section 27, Township 9 North, Range 44 East; Thence east continuing along said forest boundary approximately 2 miles to the northeast corner of Section 36, Township 9 North, Range 44 East; Thence south along said forest boundary approximately 1 mile to the east 1/4 corner of Section 1, Township 8 North, Range 44 East; Thence east continuing along said forest boundary approximately 2 miles to the east 1/4 corner of Section 5, Township 8 North, Range 45 East; Thence south continuing along said forest boundary approximately 5 miles to the east 1/4 corner of Section 32, Township 8 North, Range 45 East; Thence east continuing along said forest boundary approximately 1-1/2 miles to the center of Section 34, Township 8 North, Range 45 East; Thence south continuing along said forest boundary approximately 1-1/8 miles to the center line of Bitch Creek; Thence southwesterly along the center line of Bitch Creek approximately 10-1/2 miles to the confluence of Bitch Creek with the Teton River; Thence westerly 8 miles along the center line of the Teton River to the west line of Section 21, Township 7 North, Range 43 East; Thence north approximately 1/10 of a mile to the southwest corner of Section 16, Township 7 North, Range 43 East and the point of beginning. (5-3-03)

02. Teton And Portions Of Madison County Seed Potato Crop Management Area. (5-3-03)

a. All of Teton County, Idaho; (5-3-03)

b. That portion of Madison County, Idaho, located in Township 6 North and Township 7 North lying East of Canyon Creek; and (5-3-03)

c. That portion of Madison County, Idaho located in Township 6 North, Range 42 East which includes portions of Sections 11 and 13 located south of Highway 33 and all of Sections 14, 15, 23, and 24. (5-3-03)

03. Lost River Seed Potato Crop Management Area. Those portions of Butte and Custer Counties within Township 3 North to Township 7 North and Range 23 East to Range 27 East. (5-3-03)

04. Caribou And Franklin County Seed Potato Crop Management Area. All of Caribou County, Idaho and all of Franklin County, Idaho. (5-3-03)

05. Almo Valley Bridge Seed Potato Crop Management Area. (5-3-03)

a. That portion of Cassia County, Idaho located in Township 16 South, Range 24 East which includes all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; (5-3-03)

b. That portion of Cassia County, Idaho located in Township 15 South, Range 24 East which includes all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; (5-3-03)

c. That portion of Cassia County, Idaho located in Township 14 South, Range 24 East which includes all of Section 36; (5-3-03)

d. That portion of Cassia County, Idaho located in Township 14 South, Range 25 East which includes all of Sections 19, 20, 29, 30, 31, and 32; (5-3-03)

e. That portion of Cassia County, Idaho located in Township 15 South, Range 25 East which includes all of Sections 5, 6, 7, 8, 18, 19, 20, 29, 30, 31, 32 and the Northeast ¼ of Section 33; (5-3-03)

f. That portion of Cassia County, Idaho located in Township 16 South, Range 25 East which includes all of Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 29, 30, 31, 32, 33, 34, 35, and 36; (5-3-03)

g. That portion of Cassia County, Idaho located in Township 16 South, Range 26 East; and (5-3-03)

h. That portion of Cassia County, Idaho located in Township 16 South, Range 27 East which includes all of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, and 30. (5-3-03)

06. Ririe Reservoir Seed Potato Crop Management Area. (5-3-03)

a. That portion of Bonneville County, Idaho located in Township 3 North, Range 40 East which includes all of Sections 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, and 36; (5-3-03)

b. That portion of Bonneville County, Idaho located in Township 3 North, Range 41 East which includes all of Sections 8, 15, 16, 17, 18, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36; (5-3-03)

c. That portion of Bonneville County, Idaho located in Township 2 North, Range 42 East which includes all of Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34; and (5-3-03)

d. That portion of Bonneville County, Idaho located in Township 3 North, Range 42 East which includes all of Sections 31, 32, and 33. (5-3-03)

07. Picabo Seed Potato Crop Management Area. That portion of Blaine County, Idaho beginning with Township 1S, in Range 18, all of sections 23 and 24, leading into Township 1N, in Range 19 all of sections: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, and 34. Leading into Township 1S, in Range 19, the W ½ of section 1, and all of sections: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29. Leading into Township 1S, Range 20, all of sections: 7, 8, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30, 35, and 36, including the N ½ of Sections 33 and 34. Leading into Township 2S, Range 20, all of sections 1, 2, and 12. Leading into Township 1S, Range 21, all of sections: 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, W ½ of section 28, and all of sections 29, 30, 31, 32, and the NW ¼ of section 33, from Hwy 20 North, plus section 21 from Dry Creek Road North. Leading into Township 2S, Range 21, all of the W ½ of section 3, and all of the following sections: 4, 5, 6, 7, 8, E ½ of section 9, all of sections 17, 18, 19, 20, 21, 28, 29, 30, and 31, W ½ and the SE ½ of the NE ¼ of section 10. Leading into Township 1N, Range 21, all of sections: 30, 31, and 32. All U.S. Department of the Interior, Bureau of Land Management property and property owned by the state of Idaho existing within the above mentioned areas will not be considered part of the management area. (5-30-03)T

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.40 - RULES GOVERNING GINSENG CROP MANAGEMENT AREA FOR MAGIC VALLEY

DOCKET NO. 02-0640-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 2, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-112, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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 proposed amendment will change the title and authority for the rule and eliminate the requirement for a management area.

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 reasons:

This amendment is pursuant to new authority as provided for by HB 298 passed by the 2003 Legislature. This amendment will allow a grower to immediately enter the program, and upon compliance, begin to export.

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

No fees are being requested.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 23rd day of May, 2003.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0640-0301

IDAPA 02, TITLE 06, CHAPTER 40

02.06.40 - RULES GOVERNING GINSENG
~~CROP MANAGEMENT AREA FOR MAGIC VALLEY EXPORT~~

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter ~~201~~, Section 22-112, Idaho Code.

~~(5-3-03)~~(6-2-03)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.40, "Rules Governing Ginseng ~~Crop Management Area for Magic Valley Export~~".

~~(5-3-03)~~(6-2-03)T

02. Scope. This chapter has the following scope: (3-30-01)

a. Establish definitions; (3-30-01)

b. Provide for licensing and registration of persons growing, purchasing and selling ginseng; (3-30-01)

c. Provide for inspections and accounting for all ginseng exported from Idaho; (3-30-01)

d. Specify the records to be kept by ginseng growers and dealers; and (3-30-01)

e. Provide a schedule of fees for services performed in implementing these rules. (3-30-01)

f. The official citation for this Chapter is IDAPA 02.06.40.000 et seq. For example, this section's citation is IDAPA 02.06.40.001. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

~~051. MANAGEMENT AREA.~~

~~Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls Counties, state of Idaho. (3-30-01)~~

~~0521~~ -- 099. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.08.01 - SHEEP AND GOAT RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

DOCKET NO. 02-0801-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 15, 2003. The 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 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 Title 25, Chapter 1, Idaho Code.

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

The proposed rules have been amended in response to public comments, and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Idaho Board of Sheep Commissioners amended the temporary rule with the same revisions that have been made to the proposed rule.

This pending rule adds Section 014, Additional Import Requirements; and amends the following Section: 301, *Brucella Ovis* Free Flock Program Standards.

Only the Sections that have amendments are printed in this bulletin. The original text of the proposed rule was published in the January 1, 2003 Idaho Administrative Bulletin, Volume 03-1, pages 33 through 45.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Stan Boyd, Idaho Sheep Commission, at (208) 334-3115 or John Chatburn, Idaho State Department of Agriculture, at (208) 332-8540.

DATED this 21st day of May, 2003.

Stanley T. Boyd, Executive Secretary
Idaho Sheep Commission
802 W. Bannock St., Ste. 205
P.O. Box 2596, Boise, ID 83701
(208)-334-3115 / (208)-336-9447 FAX

IDAPA 02, TITLE 08, CHAPTER 01

SHEEP AND GOAT RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

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 03-1, January 1, 2003, pages 33 through 45.

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. 02-0801-0301

014. ADDITIONAL IMPORT REQUIREMENTS.

The Board may impose additional or more restrictive import requirements than the requirements in this chapter by issuing a written order stating the additional requirements and the reasons for the requirements. (7-15-03)T

~~0145.~~ -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

301. BRUCELLA OVIS FREE FLOCK PROGRAM STANDARDS.

Flocks ~~can~~ may be certified as *Brucella ovis* free by the Board under the following circumstances:

~~(11-12-02)F~~(7-15-03)T

01. Flocks From Which Rams Are Not Leased, Rented Or Loaned: (11-12-02)T

a. One (1) negative *Brucella ovis* ELISA test annually for two (2) years on all rams over six (6) months of age ~~exposed to the ewe flock.~~ (11-12-02)F(7-15-03)T

b. Any new ram over six (6) months of age entering the flock for breeding purposes must be tested after sixty (60) days of purchase and test negative. (11-12-02)T

02. Flocks From Which Rams Are Leased, Rented Or Loaned: (11-12-02)T

a. One (1) negative *Brucella ovis* ELISA test annually for two (2) years on all rams over six (6) months of age ~~exposed to the ewe flock.~~ (11-12-02)F(7-15-03)T

b. All sexually active rams which leave the owners premises and return must be tested after sixty (60) days of sexual rest and test negative on a *Brucella ovis* test. (11-12-02)T

c. ~~An positive test cancels the certification status. The certification process may be restarted after all sexually active males on the premises test negative.~~ (11-12-02)F

03. Suspect Brucella Ovis ELISA Positive Test Results. A positive test result cancels *Brucella Ovis* Free certification status. The certification process may be restarted after the following conditions have been met:

~~(11-12-02)F~~(7-15-03)T

a. ~~A suspect result requires isolation of~~ The individual ram that has a positive test result is held in
isolation; and ~~(11-12-02)F~~(7-15-03)T

b. ~~A suspect result requires a~~ Is retested ~~in~~ at least thirty (30) days- ~~after, but not more than sixty (60)~~
days after the initial positive test; and ~~(11-12-02)F~~(7-15-03)T

c. All rams that have a second positive test result are either castrated, slaughtered, or sold for
slaughter only. ~~(11-12-02)F~~(7-15-03)T

04. Approved *Brucella Ovis* Tests: (11-12-02)T

a. Tests must be performed by a laboratory approved by the board; and (11-12-02)T

b. Blood samples must be taken and sent to the approved laboratory by a licensed, accredited
veterinarian; and (11-12-02)T

c. Tests must be an approved ELISA test for *Brucella ovis*. (11-12-02)T

IDAPA 09 - IDAHO DEPARTMENT OF LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective April 28, 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 Section(s) 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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: IDAPA 09.01.30.550.03 would be amended to add a new method for benefit claimants to file weekly or biweekly reports. The rule would provide that, in addition to the current filing methods, reports may be filed electronically.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: With new technology available, the Department wishes to adopt additional, more convenient methods for unemployment insurance benefit claimants to use when filing their weekly or biweekly reports with the Department. These additional methods of filing will confer a benefit to unemployment insurance benefit claimants.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the agency determined it was not feasible due to the simple nature of the proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes at 208/332-3570 ext. 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th day of May, 2003.

Roger Holmes
UI Benefits Bureau Chief
Benefit Programs Bureau
Idaho Department of Labor
317 W. Main St.
Boise, ID 83735
208/332-3570 ext. 3233
208/334-6301 Fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0301

550. REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. Failure to file timely reports shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

01. In-Person Reports. A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the following working day. (3-19-99)

02. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. (3-19-99)

03. Telephone/Internet Reports. Reports filed by telephone to the Idaho Tel A Claim system or via the internet must be made between 12:01 A.M. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. ~~(3-19-99)~~(4-28-03)T

04. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was personally delivered to a local office or mailed within the filing period, a replacement report shall be considered timely. (3-19-99)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.13 - RULES GOVERNING EMERGENCY ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0613-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 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, 56-201 and 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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:

This entire chapter of rules is being repealed. The chapter is being rewritten and published under Docket No. 16-0613-0302 in this Bulletin following this notice.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because the temporary rule is necessary in order to comply with federal regulations in 45 CFR.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these are amendments to conform to federal regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Mardell Nelson at (208) 334-5688.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 23, 2003.

DATED this 22nd day of May, 2003.

Sherri Kovach
Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street, 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16.06.13 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.13 - RULES GOVERNING EMERGENCY ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0613-0302

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 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, 56-201 and 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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:

This chapter of rules is being rewritten in order to bring the rules into compliance and to update and clarify federal regulations for Title IV-A funding. Language in the chapter will be reviewed and obsolete language removed as well as add sections to comply with IDAPA requirements.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because the temporary rule is necessary in order to comply with federal regulations in 45 CFR.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these are amendments to conform with federal regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Mardell Nelson at (208) 334-5688.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 23, 2003.

DATED this 22nd day of May, 2003.

Sherri Kovach
Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street, 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0613-0302

IDAPA 16, TITLE 06, CHAPTER 13

16.06.13 - RULES GOVERNING EMERGENCY ASSISTANCE FOR FAMILIES AND CHILDREN

000. LEGAL AUTHORITY.

The Idaho Department of Health and Welfare is authorized by the Idaho Legislature to adopt and enforce rules for the administration of the public assistance programs according to Sections 56-201, 56-202(b), Idaho Code, and Title IV-A of the Social Security Act. (7-1-03)T

001. TITLE AND SCOPE.

01. Title. The title of these rules will be IDAPA 16.06.13, "Rules Governing Emergency Assistance for Families and Children". (7-1-03)T

02. Scope. The purpose of these rules is to establish statewide provisions of emergency assistance to families with children or youth eligible to receive assistance through Title IV-A funds in order to meet the family's emergency conditions. (7-1-03)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201, Idaho Code, the Department has no written interpretations that apply to this chapter of rules. (7-1-03)T

003. ADMINISTRATIVE APPEALS.

Appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (7-1-03)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference in this chapter of rules. (7-1-03)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (7-1-03)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (7-1-03)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83720-0036. (7-1-03)T

04. Telephone. (208) 334-5500. (7-1-03)T

05. Internet Website. The Department's Internet website is found at: <http://www2.state.id.us/dhw/>. (7-1-03)T

006. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions of 45 CFR 205.50; Title 9, Chapter 3, Idaho Code; and IDAPA 16.05.01, "Use and Disclosure of Department Records". (7-1-03)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

01. Adult Relatives. Any non-parent individual over the age of eighteen (18) years, who is related to

the eligible child in any of the following ways; brother, sister, aunt, uncle, nephew, niece, first cousin or first cousin once removed, or one (1) of these relationships prefixed by "grand" or "great," or one (1) of these relationships by half-blood; a step-parent, step-sibling, or the spouse of a relative by marriage, even if the marriage has ended.

(7-1-03)T

02. Authorization Assessment. A standardized assessment conducted by the Department within the first thirty (30) days following the date of application for emergency assistance.

(7-1-03)T

03. Child. A person from birth to his eighteenth birthday.

(7-1-03)T

04. Child Protection Services. Authorities to whom an individual reports the potential, alleged or actual abuse, abandonment or neglect of a child, in accordance with the provisions of Title 16, Chapter 16, Idaho Code, known as the "Child Protective Act".

(7-1-03)T

05. Department. The Idaho Department of Health and Welfare, or its designee.

(7-1-03)T

06. Designated Staff. Department staff who provide direct services to families and children.

(7-1-03)T

07. Emergency Assistance. Funding through Title IV-A for social services, emergency payments, and placement payments authorized by the Department and designed to meet short-term, non-recurrent emergency needs of families with children.

(7-1-03)T

08. Federal Poverty Guideline. Poverty guidelines issued each year in the Federal Register by the Department of Health and Human Services used to determine financial eligibility for certain state and federal programs. These guidelines may be accessed at the Internet website "<http://aspe.os.dhhs.gov/poverty/>".

(7-1-03)T

09. Needy Family. Two hundred percent (200%) of poverty as defined in the Federal Poverty Guidelines, or insufficient resources immediately available to meet the child's basic needs and which threatens the child's safety, stability, or well-being.

(7-1-03)T

10. Respite Care. Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual caregiver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days.

(7-1-03)T

11. Service Period. Is the thirty (30) day authorization assessment period and up to ninety (90) days following the assessment period.

(7-1-03)T

12. Youth. A person between eighteen (18) years of age and his twenty-first birthday.

(7-1-03)T

011. -- 099. (RESERVED).

100. EMERGENCY CONDITION.

01. Reporting Or Referral Of An Emergency Condition. A family is assessed for an emergency condition when the Department receives a report, referral or service request indicating an emergency condition exists as described in Subsection 100.02 of these rules.

(7-1-03)T

02. Emergency Condition. A family has an emergency condition when any of the following exists:

(7-1-03)T

a. A child is in immediate danger of a life-threatening or emergency situation. See IDAPA 16.06.01, "Rules Governing Family and Children's Services," Subsection 554.01.

(7-1-03)T

b. A child is suspected of being abused, including physical or sexual, or serious physical or medical neglect has been reported. See IDAPA 16.06.01, "Rules Governing Family and Children's Services," Subsection 554.01.

(7-1-03)T

c. A child is in a vulnerable situation because of the lack of parental care or insufficient resources immediately available to meet his basic needs and the unmet needs may be a threat to the child's health, safety, stability, or well-being. (7-1-03)T

101. -- 149. (RESERVED).

150. APPLICATION FOR SERVICES.

01. To Apply For Emergency Assistance. An application must be completed and signed by one (1) of the following individuals on behalf of the eligible child in order for emergency assistance to be given: (7-1-03)T

a. A parent or parents. (7-1-03)T

b. An adult relative may sign on behalf of the child, when the child is residing with him and he is responsible for the child's care. (7-1-03)T

c. Designated staff may sign the application on behalf of a child in the legal custody of the Department. The Department must notify the family of the emergency assistance funding being used because the expenditure will affect the family's eligibility for emergency assistance benefits for a twelve-month period from the date the application is signed. (7-1-03)T

d. A youth, who has lived with a parent or relative within six (6) months prior to the month of the application, may sign the application on his own behalf. (7-1-03)T

02. Individual Not Related To The Child. Except as stated in Subsection 150.01.c. of these rules, an individual not related to the child may not apply for emergency assistance on behalf of the child. (7-1-03)T

151. -- 159. (RESERVED).

160. ELIGIBILITY REQUIREMENTS.

The following requirements in Subsections 160.01 through 106.05 of these rules must be met before a family is eligible for emergency assistance. (7-1-03)T

01. Child Or Youth. There must be a child or youth in the household for the family to be eligible. (7-1-03)T

02. Citizenship. To be eligible for emergency assistance an individual must meet the citizenship requirements in IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho," Section 131. (7-1-03)T

03. Income Guidelines. The family is determined as needy when the household income is below two hundred percent (200%) of the current Federal Poverty Guideline or is unable to meet the emergency condition because of circumstances beyond their control. When both parents are absent, refuse to cooperate in supporting the child or youth and are unwilling to apply on his behalf, his income alone is considered. (7-1-03)T

04. Residence. The child or youth must have lived with one (1) or both parents or an adult relative, within six (6) months prior to the month of application for emergency assistance. A child or youth may move from one (1) household to another and be eligible to receive emergency assistance in either household. 7-1-03)T

05. Work Program Compliance. An individual who is required to participate in a work program must not have refused, without good cause, to accept employment or training for employment. (7-1-03)T

161. -- 199. (RESERVED).

200. ASSESSMENT AND AUTHORIZATION FOR EMERGENCY ASSISTANCE.

01. Authority To Assess Needs For Emergency Assistance. Contractors may conduct assessments and make referrals for authorization. (7-1-03)T

02. Authority To Authorize Emergency Assistance. Emergency assistance payments and services may only be authorized by the Department's designated staff. (7-1-03)T

03. Authorization And Assessment Period. The thirty-day authorization and assessment period begins the date the applicant signs the application. Services may be provided during this authorization and assessment period. (7-1-03)T

04. Service Period. A service period may continue for a maximum of ninety (90) days following the assessment period in Subsection 200.03 of these rules. (7-1-03)T

05. Total Number Of Days For Emergency Assistance. The total number of days a family may receive emergency assistance is one hundred twenty (120) consecutive days in a twelve-month period from the date the application is signed. (7-1-03)T

06. Assessment Content. The Department or its designee must describe in the assessment the following: (7-1-03)T

a. The emergency condition; (7-1-03)T

b. The family's issues which caused the emergency condition; and (7-1-03)T

c. A family service plan. (7-1-03)T

07. Family Service Plan Content. The Department or its designee must develop a family service plan that has been signed by the applicant. The plan must include a description of the following: (7-1-03)T

a. The types of services and the reason the services are needed; (7-1-03)T

b. The specific period each service will be covered; (7-1-03)T

c. Who is providing the service; (7-1-03)T

d. A list of resources and contacts made on behalf of the family; and (7-1-03)T

e. How the needs of the family will be met in the future. (7-1-03)T

201. -- 209. (RESERVED).

210. DURATION FOR EMERGENCY ASSISTANCE.

Emergency assistance may be provided to a family one (1) time during a twelve-month period counted from the date the application is signed, unless the original application was denied or withdrawn. The emergency assistance can not exceed a total of one hundred and twenty (120) consecutive days. (7-1-03)T

01. Subsequent Emergency Conditions. (7-1-03)T

a. If more than one (1) emergency condition occurs within the thirty-day authorization assessment period, all emergency conditions are considered to be the same emergency and additional funds may be authorized to cover additional services needed. (7-1-03)T

b. If a second emergency condition occurs after the thirty-day authorization assessment period, it is considered a separate emergency condition and emergency assistance can not be used to provide services or payment of additional funds (7-1-03)T

02. Out-Of-Home Placement For Child. If the Department places a child in out-of-home care and

pays for the placement with emergency assistance funds, the family's emergency assistance benefit for the following twelve (12) months is used from the date the application is signed. (7-1-03)T

211. -- 299. (RESERVED).

300. EMERGENCY ASSISTANCE PAYMENTS.

Emergency assistance payments are non-recurrent, short-term benefits for specific emergency conditions that are provided to assist a family with an eligible child or youth. These payments are not intended to meet ongoing and recurrent needs that will extend beyond the one hundred twenty-day service period. (7-1-03)T

01. Emergency Payments. Emergency payments will be made to purchase goods and services relating to the emergency condition. (7-1-03)T

02. Placement Payments. Placement payments may be made for shelter care, foster care, residential or group care for a child and may include food, clothing and supervision unless the child has assistance provided under Title IV-E funding. (7-1-03)T

03. Non-Allowable Payments. Emergency assistance funds may not be used to pay for the following: (7-1-03)T

a. Medical services reimbursable by Medicaid regardless of whether the individual is receiving or eligible for Medicaid. (7-1-03)T

b. Services provided to meet a family's on going basic needs including housing, food, clothing, transportation and household goods that extend beyond the one hundred twenty (120) days. (7-1-03)T

c. Services available through other community resources. (7-1-03)T

d. Child care that is not considered respite care. (7-1-03)T

e. Medical or automobile insurance. (7-1-03)T

f. Down payment or purchases of vehicles or real property. (7-1-03)T

04. Funding Restrictions. The Department may take action to reduce emergency assistance payments when available funding is insufficient. (7-1-03)T

301. -- 399. (RESERVED).

400. CHILD WELFARE SOCIAL SERVICES.

01. Child Welfare Social Services. Designated staff may provide services to families with an emergency condition as described in Subsections 100.02.a. and 100.02.b. of these rules. The types of services that may be provided are: (7-1-03)T

a. Information and referrals; (7-1-03)T

b. Service coordination; (7-1-03)T

c. Court-related activities; (7-1-03)T

d. Intensive in-home services; (7-1-03)T

e. Day treatment; (7-1-03)T

f. Counseling; (7-1-03)T

- g.** Companion services; (7-1-03)T
- h.** Non-residential substance abuse treatment; (7-1-03)T
- i.** Community-based assessments; and (7-1-03)T
- j.** Respite and shelter care. (7-1-03)T

02. Additional Services. Additional services may be purchased to meet the needs related to the family's emergency condition as described in Subsections 100.02.a. and 100.02.b. of these rules, in order to avoid out-of-home placement for the child or to expedite family reunification. (7-1-03)T

401. -- 409. (RESERVED).

410. CHILD WELFARE EMERGENCY ASSISTANCE PROGRAM ADMINISTRATION.

01. Assistance Program. Designated staff will engage in activities incidental and necessary for the proper and efficient administration of the child welfare emergency assistance program relating to families who meet emergency conditions described in Section 100 of these rules. (7-1-03)T

02. Administrative Duties. Administrative duties will include the following: (7-1-03)T

- a.** Complete the eligibility process including receiving reports and referrals indicating emergency conditions, taking applications, and any documentation necessary to administer the emergency assistance program. (7-1-03)T
- b.** Complete risk assessments; (7-1-03)T
- c.** Court-related activities as needed; (7-1-03)T
- d.** Develop family plans to help stabilize the family by authorizing needed services; (7-1-03)T
- e.** Make payments, complete reporting and documentation required to provide services for the emergency conditions of the family; (7-1-03)T
- f.** Provide training to Department staff and service providers; and (7-1-03)T
- g.** Provide other administrative activities as needed. (7-1-03)T

411. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-0301 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 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 Sections 41-211 and 41-401, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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 Department currently has the capability of renewing producer licenses electronically. If a license is renewed electronically, all hands-on administration is eliminated. To encourage the electronic renewal of producer licenses and to share the administrative efficiencies of licensing electronically, a decrease of the licensing fees stated under IDAPA 18.01.44.030.04 is appropriate, if the license is renewed electronically. The fee to renew a license is currently eighty dollars (\$80). This rule will reduce the fee for licenses renewed electronically to sixty dollars (\$60).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule confers a benefit by reducing the producer license renewal fee for electronic renewals.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee increase. The fee for producer licenses renewed electronically will be reduced by twenty dollars (\$20).

NEGOTIATED RULEMAKING: Pursuant to IDAPA 03.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jim Genetti at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before July 23, 2003.

Dated this 28th day of May, 2003.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Facsimile No. (208) 334-4298

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0144-0301

030. PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and must be paid with the filing application for original license, which fees include the issuance of a license, if issued: (3-13-02)

- a. Administrators - Three hundred dollars (\$300). (7-1-00)
- b. Producers - Eighty dollars (\$80). (3-13-02)
- c. Designation as a managing general agent - Eighty dollars (\$80). (3-13-02)
- d. Adjusters - Eighty dollars (\$80). (3-13-02)
- e. Reinsurance intermediary - Eighty dollars (\$80). (3-13-02)
- f. Surplus line brokers - Eighty dollars (\$80). (3-13-02)

02. Examination Fees. The following fees are due and must be paid in order to take examinations for the following licenses: (3-13-02)

- a. Producers and adjusters - application for examination and each time taken - Sixty dollars (\$60). (3-13-02)

03. Fingerprint Processing. Processing fingerprints, where required - Sixty dollars (\$60). (7-1-00)

04. License Renewal. The following fees are due and must be paid for each license in order to renew or continue each and every license: (3-13-02)

- a. Adjusters, producers (biennial) - Eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (~~3-13-02~~)(7-1-03)T
- b. Redesignation as managing general agent (annual) - Eighty dollars (\$80). (3-13-02)
- c. Administrators (annual) - Eighty dollars (\$80). (3-13-02)
- d. Surplus line brokers (biennial) - Eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (~~3-13-02~~)(7-1-03)T

IDAPA 18 - DEPARTMENT OF INSURANCE

**18.01.48 - RULE TO IMPLEMENT THE PRIVACY OF CONSUMER
FINANCIAL AND HEALTH INFORMATION**

DOCKET NO. 18-0148-0101

NOTICE OF RULEMAKING - EXPIRATION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the temporary rule previously adopted under this docket has expired. The action is authorized pursuant to Section 41-1334, Idaho Code.

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

The temporary rule has been replaced by a permanent rule, Docket No. 18-0148-0201, which was adopted to meet the requirements of federal law and Section 41-1334, Idaho Code. The permanent rule became final and effective at the conclusion of the legislative session, May 5, 2003. The temporary rule adopted under Docket No. 18-0148-0101 was not submitted to the legislature for review and extension during the last legislative session and is null and void and has no force and effect.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the expiration of this temporary rule, contact Shad Priest at (208) 334-4250.

Dated this 27th day of May, 2003.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Facsimile No.: (208) 334-4398

IDAPA 20 - DEPARTMENT OF LANDS

20.03.03 - RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND

DOCKET NO. 20-0303-0301 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective April 1, 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 Title 47, Chapter 18, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency not later than July 16, 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 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:

These rules establish the State Board of Land Commissioner's desire to implement and require an alternative form of reclamation assurance through the establishment of the Reclamation Fund. In general, the rules establish specific types of operations which are required to participate in the fund, which types of operations are not allowed to participate in the reclamation fund, and requires some operators to make a single annual payment to the Department of Lands' dedicated reclamation fund in lieu of providing a traditional insurance or cash reclamation bond. The rules also establish how operators will be billed for the annual fee in lieu of submission of the traditional bond, pro-rating of fees on an annual basis when necessary, and the transfer of bond responsibilities from one operator to another. The department sent two letters to all potentially affected operators requesting their comments and questions about the proposed policy and rules. The department met with operators during eight (8) public meetings that were held around the state. After the meetings, the department provided all potentially affected operators the chance to comment on the final policy and rules and met again with operators in Boise to resolve remaining concerns.

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

During the 2002 legislative session, the Independent Miners Association introduced legislation to help alleviate the financial impact of reclamation bonding on sand and gravel operations, small mining operations and the independent mining community. The legislation specifically provided that the State Board of Land Commissioners may require an operator to provide an alternative form of financial assurance. Title 47, chapter 18, Idaho Code was passed under an emergency order, effective May 1, 2002. Proponents anticipated that the board would immediately begin negotiations with the mining industry and adopt policy to require the submission of an alternative bond in accordance with the provisions of the chapter as outlined in title 47, chapter 1802. This legislation was specifically introduced, passed and planned for implementation in order to alleviate significant financial impacts which could adversely affect mine operators across the state and to alleviate significant financial impact resulting from changes in the Bureau of Land Management's mining regulations under 43 CFR part 3809, effective January 21, 2003.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid significant financial impacts and the fee is described herein. Concurrent with authorization to implement temporary rules, the State Board of Land Commissioners has adopted the following fee schedule in lieu of traditional reclamation bonding which requires the posting of cash or insurance bonds. The following schedule shall be used to determine the annual fee for each reclamation plan, placer permit, temporary permit, or exploration project.

40 acres, no participation
35 to 40 acres -- \$550
30 to 35 acres -- \$500

25 to 30 acres -- \$450
20 to 25 acres -- \$400
15 to 20 acres -- \$350
10 to 15 acres -- \$300
5 to 10 acres -- \$250
2 to 5 acres -- \$200
2 acres or less -- \$100

The fee in lieu of a mineral lease bond shall be \$100.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted. Eight (8) public hearings were held across the state and the department requested comments from all potentially affected operators on two separate occasions. Staff from the Department of Lands worked with industry representatives from May 2002 through September 2002 to develop an initial draft policy to implement the reclamation fund. A summary of the draft policy was sent to over 600 mineral lessees and mine operators that could be affected by the reclamation fund. Recipients were asked to review the draft policy and submit comments. After receiving initial comments and amending the proposal, nine (9) open houses meetings were held across the state. Invitations to attend the open houses were sent to all potentially affected operators. The department considered all comments and recommendations before drafting a final proposed policy that was again sent to all potentially affected operators for their review and comment. Lastly, department staff met with industry representatives in Boise to finalize the proposed policy that is the basis for the Temporary and Proposed Rules

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary and proposed rules, contact Sharon Murray at (208) 334-0231.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 23, 2003.

Dated this 21st day of May, 2003.

Winston A Wiggins, Director
Idaho Department of Lands
954 W. Jefferson Street
P.O. Box 83720
Boise, Idaho 83720-0050
Telephone: (208) 334-0200
Fax: (208) 334-3698

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0303-0301

IDAPA 20, TITLE 03, CHAPTER 03

20.03.03 - RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Sections 58-104(3) and (6), Idaho Code, and Title 47, Chapter 18, Idaho Code. The board has delegated to the director of the Idaho

Department of Lands the duties and powers under Title 47, Chapter 18, Idaho Code and these rules; provided that the board shall retain responsibility for administrative review. (4-1-03)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund," IDAPA 20, Title 03, Chapter 03. (4-1-03)T

02. Scope. These rules constitute the Idaho Department of Lands' administrative procedures for implementation of a Reclamation Fund to be used as an alternative form of financial assurance for mining operations in Idaho. These rules shall be construed in a manner consistent with the duties and responsibilities of the board as set forth in Title 47, Chapters 7, 13, 15, and 18, Idaho Code, and IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho," IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho," and IDAPA 20.03.05, "Riverbed Mineral Leasing In Idaho". (4-1-03)T

002. WRITTEN INTERPRETATIONS.

The board does not rely on any written interpretive statements concerning these rules. (4-1-03)T

003. ADMINISTRATIVE APPEALS.

01. Procedure For Appeals. Any operator, lessee, permit or plan holder aggrieved by any final decision or order of the board shall be entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, and the Administrative Procedures Act. (4-1-03)T

02. Effective Date Of A Final Order. When the director or the board finds that justice so requires, it may postpone the effective date of a final order pending judicial review. (4-1-03)T

03. Filing a Civil Action in District Court For Noncompliance. Notwithstanding any other provisions of these rules concerning administrative or judicial proceedings, whenever the board determines that a permittee or lessee has not complied with the provisions of the Dredge Mining Act, the Surface Mining Act, or a mineral lease, the board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides, in accordance with said acts or mineral lease. The board may request the court to issue an appropriate order to remedy any alleged violation. (4-1-03)T

004. INCORPORATION BY REFERENCE.

01. Incorporated Documents. The following documents are expressly incorporated herein by reference as part of these rules to the extent that said rules or mineral lease apply to a subject mining operation. (4-1-03)T

a. IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho". (4-1-03)T

b. IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho". (4-1-03)T

c. Title 47, Chapter 7, Idaho Code, Mineral Rights In State Lands. (4-1-03)T

02. Availability of Incorporated Documents. Unofficial copies of the incorporated documents may be obtained from any Idaho Department of Lands Office. Official copies of the incorporated administrative rules may be obtained from the Office of Administrative Rules located at 650 W. State Street, Room 100, Boise, Idaho 83720. (4-1-03)T

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

01. Office. The principal place of business of the Idaho Department of Lands is the Director's Office at 954 W. Jefferson, Boise, Idaho 83720 and is open from 8 a.m. to 5 p.m. (MST), except Saturday, Sunday and legal holidays. (4-1-03)T

02. **Address.** The mailing address is Idaho Department of Lands, PO Box 83720, Boise, Idaho 83720-0050. (4-1-03)T

03. **Phone.** The telephone of the office is (208) 334-0200. (4-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

01. Administrative Procedures Act. The rules contained herein have been promulgated in accordance with the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code and are a public record. (4-1-03)T

02. Confidentiality Of Information. The following records are exempt from disclosure pursuant to Section 9-340D(2), Idaho Code, shall not be disclosed by the board, director, or department employees, to any person other than the board, director and employees of the department without the written permission of the operator, permit holder or lessee. (4-1-03)T

a. Notice of exploration as required pursuant to Section 47-1314(b), Idaho Code, and Section 020, IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho". (4-1-03)T

b. Notices of exploration as required pursuant to Section 47-1506(e), Idaho Code, and Section 060, IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho". (4-1-03)T

c. Production records. (4-1-03)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Board. The State Board of Land Commissioners or any department, commission, or agency that may lawfully succeed to the duties and powers of such board. (4-1-03)T

02. Definitions Incorporated. Except as provided in these rules, the definitions set forth in IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho," and in IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho," to the extent not provided in these rules, shall govern actions pursuant to Title 47, Chapter 18, Idaho Code, and these rules. (4-1-03)T

03. Department. The Idaho Department of Lands. (4-1-03)T

04. Disturbed Acres Or Affected Land. Land, natural watercourses, or existing stockpiles or waste piles affected by placer or dredge mining, re-mining, exploration, stockpiling of ore, waste from placer or dredge mining, or construction of roads, settling ponds, structures, or facilities appurtenant to placer or dredge mining operations. The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at a surface mining site. (4-1-03)T

05. Dredge Mining Act. Title 47, Chapter 13, Idaho Code, and IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho." (4-1-03)T

06. Financial Assurance. Performance bonding submitted to ensure reclamation of disturbed acres or affected land or ensure payments under a mineral lease. (4-1-03)T

07. Mine Or Mine Panel. The area designated by the operator or permittee as a panel of a surface mine on the map submitted pursuant to Section 47-1506, Idaho Code, or as an identifiable portion of a placer or dredge mine on the map submitted pursuant to Section 47-1317, Idaho Code. (4-1-03)T

08. Mineral Lease. Lease executed pursuant to Title 47, Chapter 7, Idaho Code. (4-1-03)T

09. Mineral Lessee. The lessee of record of a State of Idaho Mineral Lease. (4-1-03)T

- 10. Mineral Leasing Act.** Title 47, Chapter 7, Idaho Code. (4-1-03)T
- 11. Motorized Exploration.** Exploration which may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving equipment, seismic operations using explosives, and, under the Mineral Leasing Act, includes sampling with a suction dredge having an intake diameter greater than two (2) inches when operated in a perennial stream. When operated in an intermittent stream, suction dredges shall be considered motorized exploration regardless of intake size. (4-1-03)T
- 12. Operator.** Any person or persons, any partnership, limited partnership or corporation, or any association of persons, either natural or artificial, including, but not limited to, every public or governmental agency engaged in surface mining, exploration or dredge and placer mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every government agency owning or controlling the use of any surface mine or dredge and placer mine where the extraction of minerals is to be used by or for the benefit of such agency. For the purpose of these rules, an operator shall include a party holding a permit or an approved surface mining reclamation plan. (4-1-03)T
- 13. Permit.** Dredge and Placer Mining Permit issued pursuant to Title 47, Chapter 13, Idaho Code. (4-1-03)T
- 14. Reclamation Fund.** The interest-bearing dedicated fund authorized pursuant to Title 47, Chapter 18, Idaho Code. The Reclamation Fund shall consist of fees paid by participating operators, permittees or lessees, interest and cost recoveries initiated by the board pursuant to Section 47-1804, Idaho Code. (4-1-03)T
- 15. Reclamation Fund Act.** Title 47, Chapter 18, Idaho Code. (4-1-03)T
- 16. Surface Mining Act.** Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02, "Rules Governing Exploration and Surface Mining in Idaho". (4-1-03)T
- 17. Surface Mining Reclamation Plan.** Reclamation plan approved pursuant to Title 47, Chapter 15, Idaho Code. (4-1-03)T
- 18. Traditional Performance Bond.** Cash, corporate surety bond, collateral bond, or letter of credit as described in the Dredge Mining Act, the Surface Mining Act and the Mineral Leasing Act, or a mineral lease. (4-1-03)T
- 011. -- 015. (RESERVED).**
- 016. REQUIRED PARTICIPANTS.**
Operators of mineral leases, surface mines, and placer mines, with the exception of the operations and operators listed in Section 017 of these rules, shall be required to provide alternative financial assurance through the Reclamation Fund to assure the reclamation of disturbed acres or affected lands. Financial assurance pursuant to the Reclamation Fund Act and this rule shall be in lieu of traditional performance bonds as set forth in the Surface Mining Act, the Dredge Mining Act, or a mineral lease. (4-1-03)T
- 017. INELIGIBLE OPERATIONS OR OPERATORS.**
The following types of operations and operators are not allowed to participate in the Reclamation Fund and may not provide alternative financial assurance through the Reclamation Fund. (4-1-03)T
- 01. Forty Acre Limit.** A surface or placer mine or mineral lease with greater than forty (40) acres of un-reclaimed disturbed acres or affected lands may not provide alternative financial assurance through the Reclamation Fund. Un-reclaimed disturbance is that which does not meet the final traditional performance bond release criteria in the Dredge Mining Act, the Surface Mining Act or a mineral lease. (4-1-03)T
- 02. One Hundred Thousand Dollar Limit.** Operators of mines with an estimated reclamation cost in excess of one hundred thousand dollars (\$100,000), regardless of surface acreage. (4-1-03)T

- 03. Phosphate Mines.** Operators of phosphate mines or lease holders of phosphate leases. (4-1-03)T
- 04. Hardrock Mines.** Operators of hardrock mines such as gold, silver, molybdenum, copper, lead, zinc, cobalt, and other precious metal mines. (4-1-03)T
- 05. Potential Heavy Metal Releases.** Operators of mines with a reasonable potential to release heavy metals or other substances harmful to human health or the environment, but not including substances such as fuels and other materials commonly used in excavation or construction. (4-1-03)T
- 06. Oil And Gas Conservation.** Oil and gas exploration and development authorized under Title 47, Chapter 3, Idaho Code. (4-1-03)T
- 07. Oil And Gas Leasing.** Oil and gas leases and associated exploration and development authorized under Title 47, Chapter 8, Idaho Code. (4-1-03)T
- 08. Geothermal.** Geothermal leases and development authorized under Title 47, Chapter 16, Idaho Code. (4-1-03)T
- 09. Off Lease Exploration.** Motorized exploration on state lands that are not under a mineral lease or exploration location. (4-1-03)T
- 10. Violators.** Operations or operators, permittees or lessees in violation of the Dredge Mining Act, Surface Mining Act, Mineral Leasing Act, or a mineral lease. (4-1-03)T
- 11. Reclamation Fund Forfeitures.** Operators, permittees or lessees who have not reimbursed the Reclamation Fund for a forfeiture from the Reclamation Fund due to their violations of the Dredge Mining Act, Surface Mining Act, Mineral Leasing Act, or a mineral lease. (4-1-03)T
- 12. Other Forfeitures.** An operator who has forfeited a traditional performance bond. (4-1-03)T
- 018. ACREAGE LIMITATIONS.**
No operator shall be allowed to provide bonding through the Reclamation Fund if said operator has more than forty (40) acres of cumulative surface disturbance at more than one (1) mine site. An operator who has multiple plans and permits with a total disturbance in excess of forty (40) acres may participate in the Reclamation Fund with one (1) or more sites that contain less than forty (40) acres of total disturbance. These operators may also choose to not participate in the Reclamation Fund at all. A plan or permit that does not provide alternative financial assistance through the Reclamation Fund must be bonded with a traditional performance bond. (4-1-03)T
- 019. OPTIONAL PARTICIPATION.**
Operators who have one (1) or more mining operations or leases that are ineligible to participate in the Reclamation Fund as set forth in Section 017 or 018 of these rules may choose to not participate in the Reclamation Fund with respect to all other mining operations or leases in their name. An operator who does not participate in the Reclamation Fund must secure their operation with a traditional performance bond. (4-1-03)T
- 020. FEDERAL AGENCY NON-ACCEPTANCE OF RECLAMATION FUND.**
If a federal agency will not accept an operator's participation in the Reclamation Fund as proof of reclamation security, the operator will be required to provide a traditional performance bond. (4-1-03)T
- 021. -- 025. (RESERVED).**
- 026. PAYMENT.**
- 01. Board Approved Payment Schedule.** The board shall adopt a payment schedule which will be used to determine the annual Reclamation Fund payment for each mineral lease, reclamation plan, placer permit or temporary permit required to participate in the Reclamation Fund. Any changes to the payment structure must be reviewed and approved by the board. (4-1-03)T

02. Acreage Calculation. The annual payment for each participant in the Reclamation Fund shall be established based upon the number of acres of disturbed or affected land at each mining operation. The acres used to calculate the annual payment shall include the acres of currently disturbed and affected land and the acres planned to be disturbed or affected during the next twelve (12) months as required by the Surface Mining Act and the Dredge Mining Act, or as may be required by a mineral lease. The acreages of disturbed or affected land at the mining operation shall not be rounded when determining annual payments. (4-1-03)T

03. Annual Payments Non-Refundable. Payments to the Reclamation Fund are non-refundable. Payments will be billed annually and are subject to late penalties as established by the board. New participants will be assessed a pro-rated payment based on the department's established billing cycle. (4-1-03)T

04. Supplemental Payments. If an operator finds it necessary to affect more acreage than the acreage secured through the Reclamation Fund for the current period, the department may require supplemental Reclamation Fund payments. Additional Reclamation Fund payments for mineral leases may be required by the department based on site specific conditions. (4-1-03)T

05. Assignment Or Transfer. When a lease, plan or permit is assigned, financial assurance requirements must be assumed by the new lessee or operator. No Reclamation Fund payments will be refunded following an assignment. If the new operator or lessee is ineligible to participate in the Reclamation Fund, the new operator or lessee must provide a traditional performance bond before the assignment will be approved. (4-1-03)T

06. Non-Payment Constitutes Lack Of Bonding. For those operators or lessees required to participate in the Reclamation Fund, non-payment of the annual fee shall be considered a failure to provide a traditional performance bond as required by the Dredge Mining Act, the Surface Mining Act, Mineral Leasing Act, or a mineral lease. (4-1-03)T

022. -- 030. (RESERVED).

031. ENFORCEMENT AND FAILURE TO COMPLY.

01. Forfeiture. Prior to withdrawing monies from the Reclamation Fund due to a violation of the Dredge Mining Act, the Surface Mining Act, Mineral Leasing Act, or a mineral lease, the department shall comply with the procedures for traditional performance bond forfeiture. (4-1-03)T

02. Penalties. If an operator fails to provide financial assurance as required by these rules or has forfeited monies from the Reclamation Fund and has not repaid those monies, the board shall be authorized to file liens against personal property and equipment of the operator to recover costs. The operator shall be liable for actual costs of the required financial assurance, reclamation costs, and administrative costs incurred by the department in reclaiming the disturbed or affected lands. All legal action by the department shall be in accordance with the Dredge Mining Act, Surface Mining Act, Mineral Leasing Act, or any mineral lease. Authorization to obtain a lien under this rule and Section 47-1804, Idaho Code, shall be in addition to, not in lieu of, any other legal remedy available to the board and the department pursuant to the Dredge Mining Act, Surface Mining Act, Mineral Leasing Act, or any mineral lease. (4-1-03)T

03. Procedure For Appeals. Any operator or lessee aggrieved by any final order of the board regarding the Reclamation Fund Act shall be entitled to appeal using the procedures as set forth in the Dredge Mining Act, Surface Mining Act, Mineral Leasing Act or a mineral lease. (4-1-03)T

032. MINIMUM BALANCE FOR THE RECLAMATION FUND.
The board shall determine a reasonable minimum balance for the Reclamation Fund. (4-1-03)T

033. -- 999. (RESERVED).

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held pursuant to Section 67-5222, Idaho Code, if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must have been 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: Changes made to various sections of the rule are as follows:

Rule 015: Deletes out-of-date provisions for payment of fees as credit cards are now also accepted; sets an annual date by which outfitter and designated agent license applications must be completed and received by the Board; establishes a date for expiration of all licenses and clarifies that guide licenses may be submitted at any time during the year; provides for issuance of outfitter and designated agent licenses to be issued for multiple years beginning in license year 2004 and that all new applicants must be licensed for at least two (2) years before they may apply for a three year license; permits hot pursuit of bear and cougar with hounds and for hot pursuit agreements with outfitters in adjoining areas; and clarifies that clients in drop camp situation may not be provided guided services when outside the outfitters area.

Rule 054: Clarifies that identification requirements do not apply to single person boats; that on Sections CL2 and CL3 of the Clearwater River an outfitter shall have an eight (8) inch sticker affixed to each side of any boat used for anadromous fishing identifying the boat as operated by a licensed outfitter.

Rule 055: Exempts kayaks and canoes and clients rowing their own rafts from this rule.

Rule 059: Clarifies that on Section SA4A and SA4B of the Salmon River, an outfitter may put in at the Kilpatrick River access and comply with the BLM management of the Salmon River by extending the dates of operation on Section SA7A from March 15 to October 15, on Section SA7B to clarify that power boats operated from Vinegar Creek to Spring Bar and that float boats operate from Vinegar Creek to the Island Bar Boat Ramp and that a maximum of one (1) power boat and three (3) float boats may be used from September 15 to March 31; that on Section SA7C outfitters may operate from Riggins City Park boat ramp to Hammer Creek and that three (3) outfitters may operate from September 15 to March 31; and that floatboat and powerboat operators on certain identified sections are considered within their area of operations when hiking or fishing in tributaries away from the river but may not include overnight activities.

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

The temporary rule is needed to establish an annual date for expiration of all licenses; to confer the benefit to guides of being able to apply for their licenses at any time of the year; to confer on outfitters and designated agents the benefit of being able to be licensed for multiple years; to confer the benefit on outfitters and guides of hot pursuit of bear and cougar with hounds out of the outfitter's operating area; for protection of the public health, safety or welfare by providing for stickers to be affixed to licensed outfitters boats on the Clearwater River permitting them to be easily recognized, and providing a benefit to outfitters by removing the requirement that there be a guide in client rafts with no more than two (2) people; to comply with the BLM federal program management of the Salmon River and to confer a benefit on power boat and float boat outfitters to operate from March 15 to October 15 on Section SA7A of the Salmon River, to permit float boat outfitters to operate from Vinegar Creek to Island Bar Boat Ramp on Section SA7B and from the Riggins City Park Boat Ramp to Hammer Creek from September 15 to March 31 on Section SA7C of the Salmon River

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to submission, however the public will have the opportunity to comment on the rules as provided hereunder and may request a hearing as provided by Section 67-5222, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact: Jake Howard, Executive Director, (208) 327-7380 - FAX 327-7382.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th 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) 327-73820

THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-0301

015. ANNUAL DATE, MULTIPLE YEARS, FEES, AND PAYMENT.

Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, or outfitter's company check. The fee need not be submitted by a new applicant in order for the application to be considered complete but must accompany any renewal application. (4-1-92)

01. Annual Dates. (7-1-03)T

a. All outfitter and designated license applications must be completed and received by the Board by January 31 of each year. (7-1-03)T

b. All outfitter applications and designated agent applications received by the Board after January 31 that are not complete will be subject to special processing fees. (7-1-03)T

c. The last day of the license year for all licenses is March 31 of each year. (7-1-03)T

d. Guide license applications may be submitted at any time during the year. (7-1-03)T

042. Outfitter And Designated Agent Late Fee. When a completed renewal application is filed with the Board after the last day of the license year, the following penalty shall apply: (~~3-30-01~~)(7-1-03)T

a. A completed application received by the Board the last day of the license year - no late fee shall apply. (3-10-03)

b. A completed application received by the Board after the last day of the license year - a fifty dollar (\$50) late fee shall be paid before the license is issued. (3-10-03)

023. License Lapsed And Relinquished. A completed outfitter application received by the Board after

ninety (90) days after the last day of the license year will not be accepted for licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not received by the Board by ninety (90) days after the last day of the license year, the license is relinquished. (7-10-03)

034. Refund Of Unused One Time Application Fees. All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (3-19-99)

05. Multiple Year Licenses. (7-1-03)T

a. Beginning in license year 2004, outfitter and designated agent licenses may be issued for a one (1) year or three (3) year period. All new applicants must be licensed for two (2) years before the applicant may apply for a three (3) year license. (7-1-03)T

b. License fees shall be prorated based on the number of years for which the applicant is licensed. The multiyear license fee may be transferred to the bona fide purchaser of an outfitter business. Bona fide purchasers of an outfitter business will be credited for annual license fees for prorated years remaining with a business at the time of the purchase. (7-1-03)T

c. The multiple year fee must be paid at the time of renewal and prior to the beginning of the license period. This does not relieve a licensed outfitter from submitting annual reports and use reports, and annual bonding and insurance requirements. (7-1-03)T

d. There shall be no reimbursement of fees should the license become revoked or relinquished. (7-1-03)T

e. Outfitters must submit renewal applications no later than January 31 prior to the subsequent license period. (7-1-03)T

06. Payment. Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, outfitter's company check or use of outfitter and designated agent credit cards. (7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

051. PLACEMENT OF HUNTING CAMPS AND LEAVING OUTFITTER'S OPERATING AREA.

01. Hot Pursuit Of Bear And Cougar With Hounds And Hot Pursuit Agreements. With prior Board approval, an outfitter may enter into an adjacent area with a client for hot pursuit of bear and cougar hunting when hunting with hounds. The pursuit may not be started outside of the outfitter's licensed area. Outfitters may negotiate agreements with adjoining outfitters for hot pursuit of bear and cougar when hunting with hounds. Such agreements constitute a minor amendment. A copy of the amended agreement must be filed with the Board annually. An outfitter wishing to conduct a hot pursuit hunt outside his licensed area with a client must: (7-1-03)T

a. Obtain written permission from all outfitters whose licensed area(s) will be directly involved in the hunt; (7-1-03)T

b. Obtain written permission from all applicable landowners or land managers; (7-1-03)T

c. Obtain approval from the Outfitters and Guides Licensing Board to conduct the hunt by satisfying the following criteria: (7-1-03)T

i. Must be licensed for bear and cougar hunting; and (7-1-03)T

ii. Submit an incidental amendment fee. (7-1-03)T

d. With prior Board approval, on a case by case basis and under special circumstances, the Board may waive the requirement for approval from the adjacent outfitter. (7-1-03)T

02. **Camps.** A hunting outfitter shall not place a camp, nor cause one to be placed, in an area for which he is not licensed, except as identified in his approved operating plan. Whenever possible, camps used for big game hunting shall be placed well within the operating area and not ~~on~~ near the boundary line. (~~9-1-90~~)(7-1-03)T

03. **Guide Services To Clients Outside Outfitter's Operating Area.** Clients may not be provided guided services when outside the outfitters area, including any drop camp situation except as provided in Subsection 051.01. Outfitters providing unguided hunts may be subject to Board action for clients hunting outside their operating area. (7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

054. BOAT EQUIPMENT REQUIREMENTS.

Each float or power boat must have: (4-1-92)

01. Life Jacket. A life jacket for each passenger and boatman. The life jackets must be of a type approved by the U.S. Coast Guard for use in boats carrying passengers for hire and must be maintained in good and serviceable condition. (4-1-92)

02. Fire Extinguisher. A fire extinguisher. (Does not apply to float boats without motors for steering). (4-1-92)

03. Identification. (7-1-03)T

a. Identification consisting of words, names, or letters indicating the current licensed outfitter. The identification shall be recorded with the Board on the outfitter application and shall be placed above the water line on each side of the bow or stern of the boat utilized by that outfitter in letters not less than three (3) inches in height, and be of a contrasting color. (Does not apply to single ~~passenger~~ person boats or two (2) person inflatable boats). (~~3-10-03~~)(7-1-03)T

b. On Sections CL2 and CL3 of the Clearwater River, the outfitter shall have a sticker affixed to the surface of any boat used for anadromous fishing. The sticker shall not be less than eight (8) inches in height and shall be placed immediately adjacent to the identification words, names or letters on each side of the boat towards the bow, identifying the boat as operated by a licensed outfitter. The stickers shall be provided and sold annually by the Board or a vendor designated by the Board. This requirement shall not apply to single person boats or inflatable boats. The sticker requirement is null and void after July 1, 2006. (7-1-03)T

055. BOATING CLIENT/GUIDE RATIO.

All float boats, occupied by three (3) or more clients, shall be under the control of a licensed guide; except a boat guide trainee may operate a boat under the direct supervision of a licensed boatman, or may train as indicated in Section 040. Kayaks and canoes and clients rowing their own rafts ~~with no more than two (2) people~~ are exempt from this rule. (~~3-15-02~~)(7-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

01. Licensable Waters -- Table. The following rivers and streams or sections that lie totally or

partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

| River/Section | Maximum No. Power | Maximum No. Float |
|--|---|-------------------|
| (BL1) Blackfoot River - Morgan Bridge to Trail Creek Bridge | none | 2 |
| (BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. (Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman.) No overnight camping or walk-and-wade fishing allowed. | none | 2 |
| (BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. (Each outfitter may use at any time a maximum of four (4) boats for boating activities.) The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan. | none | 2 |
| (CF1) Clark Fork River - Montana stateline to Lake Pend Oreille (boating closing date September 30) | 4 outfitters for either power or float or combination thereof | |
| (CL1) Clearwater River - Lowell to Kooskia (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan). | none | 5 |
| (CL2) Clearwater River - Kooskia to Orofino (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan). | 6 | 10 |
| (CL3) Clearwater River - Orofino to Lewiston (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan). | 10 | 10 |
| * (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir | none | 4 |

| River/Section | Maximum No. Power | Maximum No. Float |
|--|-------------------|-------------------|
| (CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence (boating closing date June 30) | none | 5 |
| * (JB1) Jarbidge/Bruneau Rivers | none | 4 |
| (KO1) Kootenai River - Montana stateline to Canada boundary | 5 | 5 |
| (LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. (Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.) | none | 2 |
| * (LO1) Lochsa River | none | 5 |
| (MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20) | none | 5 |
| * (OW1) Owyhee River - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River (and continuing on to a take-out point). | none | 6 |
| (PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter. | none | 2 |
| (PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter. | none | 2 |
| (PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge | none | 5 |
| (PS1) Payette River, South Fork - Grandjean to Deadwood River | none | 5 |
| * (PS2) Payette River, South Fork - Deadwood River to Banks | none | 5 |
| (PA1) Payette River - Banks to Black Canyon Dam | none | 5 |

| River/Section | Maximum No. Power | Maximum No. Float |
|--|-------------------|-------------------|
| (PO1) Pend Oreille River | 5 | 5 |
| (PR1) Priest River - Dickensheet Campground to Priest River City | none | 5 |
| *##(MF1) Salmon River, Middle Fork - Boundary Creek to Indian Creek | none | 27 |
| *## (MF2) Salmon River, Middle Fork - Indian Creek to Cache Bar on the Salmon River | none | 27 |
| (SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar | none | 6 |
| (SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan). | none | 5 |
| (SA3) Salmon River - First Highway 93 bridge above Challis to Iron Creek Kilpatrick River access. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan). | none | 6 |
| (SA4A) Salmon River - Iron Creek Kilpatrick River access to North Fork - License period from May 1 to September 30. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.) | 5 | 11 |
| (SA4B) Salmon River - Iron Creek Kilpatrick River access to North Fork - License period from October 1 to April 30. (Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.) | 2 | 8 |
| (SA5) Salmon River - North Fork to Corn Creek | 3 | 9 |

| River/Section | Maximum No. Power | Maximum No. Float |
|---|-------------------|-------------------|
| * ## (SA6) Salmon River - Corn Creek to Spring Bar Boat Ramp | 14 | 31 |
| * (SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from April March 15 to September 30 October 15. (No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.) | 10 | 26 |
| * (SA7B) Salmon River - <u>Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats from September 15 to March 31.</u> | 10 | 26 |
| * (SA7C) Salmon River - Spring Bar Riggins City Park Boat Ramp to Hammer Creek - Closed to all commercial boating from October 1 to March 31 (Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period October from September 15 to March 31). | none | 3 |
| * ## (SA8) Salmon River - Hammer Creek to Heller Bar or Lewiston on the Snake River | 15 | 35 |
| * (SE1) Selway River - Paradise Campground to Selway Falls | none | 4 |
| (SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.) | none | 5 |
| (SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan). | none | 7 |

| River/Section | Maximum No. Power | Maximum No. Float |
|---|-------------------|-------------------|
| (SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony), and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan). | none | 8 |
| | | |
| (SH3) Snake River, Henry's Fork - St. Anthony to confluence with South Fork of Snake River (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan). | none | 4 |
| | | |
| (SS1) Snake River - South Fork - Palisades Dam to confluence with Henry's Fork. No more than four (4) boats per section/per day may be used by an outfitter at any one time on any of the following river reaches: (a) Palisades Dam to Swan Valley Bridge; (b) Swan Valley Bridge to Black Canyon (Exception: Not more than eight (8) boats will be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m.); (c) Black Canyon to Poplar (Kelly Canyon); and (d) Poplar to the confluence with Henry's Fork. Restrictions: No outfitter may have more than twelve (12) boats on the SS1 in any one (1) day. Further, the lower boundary of Section (a) (Palisades Dam to Swan Valley Bridge) shall overlay Section (b) to the Conant takeout (Swan Valley Bridge to Black Canyon), and Section (b) shall overlay Section (c) to the Cottonwood access. Supply boats which do not carry clients are exempt from these restrictions. | 5 | 6 |
| | | |
| (SN1) Snake River - Henry's Fork confluence downstream to Gem State Power Plant | 3 | 3 |
| | | |
| (SN2) Snake River - Gem State Power Plant downstream to headwaters of American Falls Reservoir | 3 | 3 |
| | | |
| (SN3) Snake River - American Falls Dam to Massacre Rocks State Park | 3 | 3 |
| | | |
| (SN4) Snake River - Massacre Rocks State Park to Milner Dam | 3 | 3 |
| | | |
| * (SN5) Snake River - Milner Dam to Star Falls | none | 3 |
| | | |

| River/Section | Maximum No. Power | Maximum No. Float |
|--|---|-------------------|
| * (SN6) Snake River - Star Falls to Twin Falls | none | 5 |
| (SN7) Snake River - Twin Falls to Lower Salmon Falls Dam | 3 | 3 |
| (SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam | 3 | 5 |
| (SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir | 5 | 5 |
| (SN10) Snake River - C.J. Strike Dam to Walter's Ferry | 5 outfitters for either power or float or combination thereof | |
| (SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir | 5 | none |
| * (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing | 18 | 15 |
| * (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing (Two (2) one-day float trips only) | none | 2 |
| (SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston | 19 | 15 |
| (SN15) Snake River - Washington/Oregon stateline to Lewiston | Limitations pending. (This section is set aside for future rules of fishing only outfitters) | |
| (SJ1) St. Joe River - Spruce Tree Campground to St Joe City Bridge. St. Joe City Bridge to Lake Coeur d'Alene | none 2 | 2 none |
| (SM1) St. Maries River | 5 | 5 |
| (TE1) Teton River - Upper put-in to Cache Bridge (motors not to exceed 10 hp) | 5 outfitters for either power or float or combination thereof | |

| River/Section | Maximum No. Power | Maximum No. Float |
|---|---|-------------------|
| (TE2) Teton River - Cache Bridge to Harrop Bridge (motors not to exceed 10 hp) | 6 outfitters for either power or float or combination thereof | |
| (TE3) Teton River - Harrop Bridge to confluence with Snake River (motors not to exceed 10 hp) | none | 5 |

* Classified rivers

Floatboat and powerboat outfitters on these sections shall be considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but shall not include overnight activities. Conflicts with land-based outfitters shall be handled on a case-by-case basis. ~~(3-30-01)~~(7-1-03)T

02. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho shall be open to fishing by outfitters with the following limitations:

| Lake or Reservoir | Maximum No. of Operators | Maximum No. Boats per Operator per Lake or Reservoir |
|--------------------------|--------------------------|--|
| Lake Coeur d'Alene | 8 | 1 |
| Dworshak Reservoir | 7 | 2 |
| Hayden Lake | 1 | 2 |
| Henry's Lake | 8 | 2 |
| Island Park Reservoir | 7 | 2 |
| Magic Reservoir | 3 | 2 |
| Palisades Reservoir | 10 | 2 |
| Lake Pend Oreille | 11 | 1 |
| Priest Lake | 5 | 1 |
| American Falls Reservoir | 3 | 2 |
| C.J. Strike Reservoir | 4 | 2 |
| Brownlee Reservoir | 5 | 2 |
| Oxbow Reservoir | 3 | 2 |
| Hells Canyon Reservoir | 3 | 2 |

(4-1-92)

03. Other Lakes And Reservoirs. All other Idaho lakes and reservoirs shall be limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. (4-1-92)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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 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:

With the enactment of House Bill 400 the sales tax rate will be increased to six percent on May 1, 2003. Rule 068 contains the schedule for collecting tax on fractions of a dollar. The Tax commission is required to provide this schedule by Section 63-3619, Idaho Code. The rule needs to be amended to reflect the new rate.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Statutory timing requires the rule be adopted as a temporary/proposed rule by inserting a table showing the new brackets for collecting sales tax and make other appropriate changes to reflect the new tax rate.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary/proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact James Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 7th day of May, 2003.

James Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0301

068. COLLECTION OF TAX (Rule 068).

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by ISTC 105. (7-1-93)

02. Sales Tax To Be Collected By Retailer. Sales tax shall be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation Of Tax. The retailer will compute the tax upon the total sale to a purchaser at a given time and not upon each individual item purchased. (7-1-93)

04. Bracket System For Five Percent Tax Rate. The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale through April 30, 2003. ~~(7-1-93)~~(5-1-03)T

- a. Multiply five cents (\$0.05) for every whole dollar included in the sale, AND (7-1-93)
- b. Add for each additional fractional dollar amount of sale the corresponding tax below:

| Dollar Amount of Sale | Tax |
|-----------------------|-----|
| 0.00 - 0.05 | .00 |
| 0.06 - 0.25 | .01 |
| 0.26 - 0.45 | .02 |
| 0.46 - 0.65 | .03 |
| 0.66 - 0.85 | .04 |
| 0.86 - 0.99 | .05 |

HOWEVER, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (7-1-93)

05. Bracket System For Six Percent Tax Rate. Beginning May 1, 2003, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. (5-1-03)T

- a. Multiply six cents (\$0.06) for every whole dollar included in the sale, AND (5-1-03)T
- b. Add for each additional fractional dollar amount of sale the corresponding tax below:

| Dollar Amount of Sale | Tax |
|-----------------------|------------|
| <u>0.00 - 0.03</u> | <u>.00</u> |
| <u>0.04 - 0.20</u> | <u>.01</u> |
| <u>0.21 - 0.37</u> | <u>.02</u> |
| <u>0.38 - 0.53</u> | <u>.03</u> |
| <u>0.54 - 0.70</u> | <u>.04</u> |
| <u>0.71 - 0.87</u> | <u>.05</u> |
| <u>0.88 - 0.99</u> | <u>.06</u> |

HOWEVER, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (5-1-03)T

056. Tax To Be Separately Displayed. The amount of tax collected by the retailer must be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax. (7-1-93)

067. Unit Sales At Single Price. When transactions involve unit sales at a single price, such as admission tickets, the requirement to calculate and itemize the sales tax can be met by showing the total cost separately in a statement of the price on the ticket. (7-1-93)

a. Example 1: The ticket price for admission to a high school basketball game is two dollars (\$2). The separate statement of tax may be shown as:

| | |
|-----------------------|------------------------------|
| Admission | \$1. 00 <u>88</u> |
| Tax (6 %) | \$.1 <u>02</u> |
| Total | \$2.00 |

~~Ten~~ Twelve cents (\$0.102) must be set aside and held as state money arising from tax on the admission. (7-1-93)(5-1-03)T

b. Example 2: The ticket price to a movie theater is four dollars (\$4.). The separate statement of tax

| | |
|-----------------------|-----------------------------|
| Admission | \$3. 47 <u>6</u> |
| Tax (6 %) | \$. <u>424</u> |
| Total | \$4.00 |

~~Nineteen~~ Twenty-four cents (\$0.424) must be set aside and held as state money arising from tax on the admission. (7-1-93)(5-1-03)T

078. Reimbursement Of Tax From The Purchaser To The Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the purchaser if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code. (7-1-93)

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer. (7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. (7-1-93)

d. The receivable established by the seller seeking reimbursement from the purchaser is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. (7-1-93)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.47 - RULES GOVERNING REVOCATION OF VEHICLE REGISTRATION FOR FAILURE TO COMPLY WITH A MOTOR VEHICLE EMISSION INSPECTION ORDINANCE

DOCKET NO. 39-0247-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 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(s) 49-201(1) and 49-202(12)(f), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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:

Senate Bill 1064, 2003 Legislative Session, has amended Section 49-520, Idaho Code, eliminating the requirement to use certified mail when sending a revocation of vehicle registration. This change is effective July 1, 2003. IDAPA 39.02.47 is being amended to comply with those changes with the same effective date.

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: Compliance with amendments to governing law.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is necessary to bring the rule into compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 21st day of May, 2003.

Linda L. Emry
Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0247-0301

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Sections 49-201(1) and 49-202(1+2)(gf), Idaho Code. ~~(1-2-93)~~(7-1-03)T

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.47, "Rules Governing Revocation of Vehicle Registration for Failure to Comply With a Motor Vehicle Emission Inspection Ordinance," IDAPA 39, Title 02, Chapter 47. (7-1-03)T

02. Scope. The rule establishes the procedure for revoking the vehicle registration of an owner who fails to comply with approved ordinances requiring motor vehicle emission inspection and readjustment. ~~(1-2-93)~~(7-1-03)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (7-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (7-1-03)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-03)T

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

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (7-1-03)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-03)T

03. Telephone And FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (7-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-03)T

0027. -- 099. (RESERVED).

100. NOTIFICATION OF FAILURE TO COMPLY AND REGISTRATION REVOCATIONS.

The county air quality agency shall provide the Department with ~~hard-copy~~ certification ~~that~~ of: ~~(1-2-93)~~(7-1-03)T

01. Notice Of Non-Compliance And Opportunity For Hearing. The vehicle owner has been given notice of non-compliance and opportunity for hearings in accordance with the ordinance of the city or county. (1-2-93)

02. Failure To Respond. The owner failed to respond to the notice of non-compliance or did not achieve favorable rulings as a result of his hearing. (1-2-93)

101. -- 199. (RESERVED).

200. ACTION BY THE DEPARTMENT.

Upon receipt of the information in Section 100 of this rule, the Department shall prepare and mail notices of revocation of the vehicle registration to the owner. Each notice of revocation shall be effective on the same date that the letter of revocation is issued. The notice shall be mailed by ~~certified mail, return receipt requested. Undeliverable notices shall be returned to the county air quality agency for research and identification of current addresses~~ first class mail. ~~(+2-93)(7-1-03)T~~

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 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(s) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 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:

House Bill 138, 2003 Legislative Session, has amended Section 49-1010, Idaho Code, allowing trailers used in the transport of implements of husbandry to be exempt from over-width permitting requirements. This change is effective July 1, 2003. IDAPA 39.03.16 is being amended to comply with those changes with the same effective date.

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:

Compliance with amendments to governing law.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is necessary to bring the rule into compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Port of Entry Manager, at 334-8694.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003

DATED this 21st day of May, 2003.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0316-0301

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter.

(7-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".

(7-1-03)T

004. INCORPORATION BY REFERENCE

There are no documents incorporated by reference in this chapter.

(7-1-03)T

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

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129.

(7-1-03)T

02. Office Hours. Daily office hours are 7 a.m. to 5 p.m. except Saturday, Sunday and state holidays.

(7-1-03)T

03. Telephone And Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419.

(7-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(7-1-03)T

007. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

300. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.

01. Width Of Hauling Equipment. Overlegal permits may be issued for nine (9) foot wide trailers hauling non-reducible loads smaller than nine (9) feet wide. Overlegal permits shall not be issued for trailers over nine (9) feet wide hauling any load on an overwidth vehicle unless such vehicle has been designed and constructed for the specific purpose of hauling a particular load the nature of which makes it ~~impossible~~ impractical to be hauled on a legal width vehicle. ~~Overwidth hauling equipment shall not exceed ten (10) feet in width.~~ The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement or an incidental haul, which shall not include commodities either to or from the point of loading or unloading of the oversize load. The permittee is required to carry proof that the unladen movement or incidental haul is on the way to or from the point of loading or unloading of the oversize load. (~~4-5-00~~)(7-1-03)T

02. Load Dimensions. Any load exceeding the dimensions of the trailer shall be non-reducible in size, and any load exceeding legal allowable weight shall be non-reducible in weight. Annual permits issued for such ten (10) foot hauling vehicles shall be subject to the requirements and limitations of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," and 39.03.13, "Rules Governing Overweight Permits," Section 200. (4-5-00)

03. Hauling Equipment In Excess Of Ten Feet. Special overwidth hauling vehicles exceeding ten (10) feet in width will be permitted, and may be required, in the hauling of excessively heavy loads to improve the lateral distribution of weight, or when a combination of weight, width, or height makes extra width in the hauling

vehicle desirable in the public interest. The use of such vehicles more than ten (10) feet in width shall be restricted to loads requiring an overwidth hauling vehicle and the backhaul permit shall be for the unladen vehicle. (10-2-89)

04. Buildings. Buildings which are too wide to be safely transported on legal-width hauling vehicles shall be moved either on house moving dollies or on trailers which can be reduced to legal width for unladen travel. (10-2-89)

301. -- 399. (RESERVED).

400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

01. Farm Tractors On Interstate Highways. Farm tractors transported on Interstate Highways are required to have overlegal permit authority if width exceeds nine (9) feet. A farm tractor when attached to an implement of husbandry or when drawing an implement of husbandry shall be construed to be an implement of husbandry and is not required to have a permit. Farmers, equipment dealers or custom operators may be issued single trip or annual permits under this rule for transportation of farm tractors, having a width in excess of nine (9) feet to or from a farm involving Interstate Highway travel. The transportation of farm tractors or implements of husbandry for hire, or not being transported from one farm operation to another, is a common-carrier operation. Exemptions from legal width limitation do not apply to common-carrier operations. Farm tractors or implements of husbandry hauled for hire, or used in the furtherance of a business (not to include farming operations), are subject to the same overlegal permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (3-30-01)

02. Other Than Farm To Farm. Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require overlegal permit authority. (4-5-00)

03. Farm Permits. Single trip permits must be ordered at the permit office and the operator may post a security bond to establish credit (See IDAPA 39.03.21, "Rules Governing Special Permit Fees," Section 300) and thereby qualify to complete an application form, call the overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the overlegal permit form. Under provisions of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (4-5-00)

04. Overwidth Farm Trailers. Trailers or semi-trailers exceeding eight feet six inches (8' 6") wide, but not wider than the implement of husbandry, used for the transportation of implements of husbandry from a farm to a farm for agricultural operations, shall be exempt from overlegal permitting requirements. This exemption does not apply to trailers or semi-trailers used in common carrier operations, hauling for hire or used in the furtherance of a business (not to include farming operations). (7-1-03)T

a. Exempt trailers, as listed above, may not be used to haul implements of husbandry that are narrower than the overwidth trailer. (7-1-03)T

b. Empty trailers, as listed above, being used to pick up or drop off an implement of husbandry from a farm to a farm are also exempt and must be reduced to a practical minimum dimension (i.e. dropping side extensions). (7-1-03)T

c. Exempt trailers, as listed above, may not be used to transport loads other than implements of husbandry from a farm to a farm. (7-1-03)T

IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR

DOCKET NO. 44-0101-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5205, 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 July 16, 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 rulemaking deletes references to hard copy publications and individually bound volumes and books and would allow the Office of the Administrative Rules Coordinator to publish all statutorily required documents in an electronic format that would be recognized as official documents. This allows for an alternative method of publishing official documents to the current method of publishing bound sets of books that make up the Idaho Administrative Code and Administrative Bulletin. This action would result in a substantial cost savings to the State. This rule change would affect only the publication of the Administrative Code at this time. The Bulletin will be published as usual.

Although it is not part of IDAPA 44.01.01, the Bulletin publication schedule that is published in the preface of each Bulletin is being amended. The agency filing date for submission of rulemakings to the Coordinator's Office is being changed to allow agencies more time to complete and file rulemakings. This change will not affect the public.

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

This rulemaking confers a benefit to the public by allowing the Coordinator's Office to implement cost saving measures requested by the Governor.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because of the nature of the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Dennis Stevenson, Assistant Administrative Rules Coordinator, at (208) 332-1822.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 28th day of May, 2003.

Rick Thompson
Administrative Rules Coordinator
Office of Administrative Rules
650 W. State St., Room 100
P. O. Box 83720, Boise, ID 83720-0306
Phone: (208) 332-1820 / Fax: (208) 332-1896

THE FOLLOWING IS THE TEXT OF DOCKET NO. 44-0101-0301

051. AGENCY PAYMENT FOR RULEMAKING.

The coordinator is authorized to allocate costs of publication and distribution to each participating agency on a per page basis. (7-1-93)

01. Less Than A Full Page. The cost per page may be imposed even though less than a full page of publication is required. (7-1-97)

02. Cost To Agencies For Code Publication. Pursuant to Section 67-5205(4), Idaho Code, the fee for rules of each agency contained in the Code billed to the respective agency shall not exceed fifty-six dollars (\$56) for each page of the Code. The fee shall be calculated based on actual pages published by the coordinator for each agency within the official copy of the Code. The cost allocations to each participating agency shall coincide with the annual publication of the Code and each agency shall promptly pay into the Administrative Code account such costs. (7-1-97)(7-1-03)T

03. Cost To Agencies For Bulletin Publication. Pursuant to Section 67-5205(4), Idaho Code, the fee for rules of each agency contained in the Bulletin billed to the respective agency shall not exceed sixty-one dollars (\$61) for each page per publication event. This fee shall be calculated based on actual pages published by the coordinator for each agency within the official copy of the Bulletin. The cost allocations to each participating agency shall be made monthly by the coordinator, and each participating agency shall promptly pay into the administrative code account such costs. (7-1-97)(7-1-03)T

052. COSTS OF DOCUMENTS PUBLICATIONS.

The coordinator is authorized to charge for copies of all APA-related ~~documents~~ publications. (7-1-93)(7-1-03)T

01. Cost Of Individual Rule Chapters. The prices to be charged for chapters of rules or portions thereof shall not exceed the larger of five dollars (\$5), or ten cents (\$.10) per page. (7-1-97)

02. Cost Of Certified Rules. Certified rules shall be provided without charge and shall include an affidavit of certification, notarized by the coordinator, and a copy of specific rules in effect on a specific date after July 1, 1993. (7-1-97)

03. Cost Of The Administrative Bulletin. The prices to be charged for ~~twelve (12) individually bound volumes of~~ the Bulletin in the form of an annual subscription shall not exceed three hundred dollars (\$300) per year. The price for individual monthly issues, which are subject to availability, shall not exceed the larger of thirty dollars (\$30) per volume or ten cents (\$.10) per page, plus sales tax, if applicable. (7-1-99)(7-1-03)T

04. Cost Of The Administrative Code. The prices to be charged for ~~a set of~~ the Administrative Code in the form of an annual subscription shall not exceed three hundred and fifty dollars (\$350) plus sales tax, if applicable, per year. Individual copies of the Administrative Code may be purchased but are subject to availability. The cost per volume shall not exceed seventy-five dollars (\$75). (7-1-99)(7-1-03)T

05. Free Distribution Of ~~Hard Copy Documents~~ Publications. In accordance with Section 67-5205(2), Idaho Code, the coordinator shall distribute copies free of charge as follows: (7-1-97)(7-1-03)T

- a. One (1) to each county clerk for the use of the county law library. (7-1-93)
- b. One (1) each to the senate and the house of representatives. (7-1-93)
- c. One (1) to the attorney general. (7-1-93)
- d. One (1) to the legislative council. (7-1-93)

- e. One (1) each to the state universities and colleges, and one (1) to each community college. (7-1-93)
 - f. One (1) to the state law library. (7-1-93)
 - g. One (1) to the state library. (7-1-93)
 - h. One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Library, Northwest Nazarene College Library and Twin Falls Public Library. (9-7-94)
- 06. Other Free ~~Documents~~ Publications.** The coordinator may distribute free copies for official use and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. ~~(7-1-93)~~(7-1-03)T

IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR

DOCKET NO. 44-0101-0302 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5205, 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 July 16, 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 rulemaking is necessary to increase the Administrative Code and Bulletin subscriber fees. The increases are necessary to offset increased costs for printing, binding and distribution of the Code and Bulletin. The cost for individual bound volumes of the Bulletin is being increased also but individual bound volumes of the Code will remain unchanged.

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

The subscription fee for the Code is increased from \$350 to \$450 and the Bulletin is increased from \$300 to \$400. These increases are necessary to offset increased costs for printing and binding. Individual copies of the Bulletin would increase from \$30 to \$40 per issue.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because of the nature of the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Dennis Stevenson, Assistant Administrative Rules Coordinator, at (208) 332-1822.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 28th day of May, 2003.

Rick Thompson
Administrative Rules Coordinator
Office of Administrative Rules
650 W. State St., Room 100
P. O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 332-1896

THE FOLLOWING IS THE TEXT OF DOCKET NO. 44-0101-0301

052. COSTS OF DOCUMENTS.

The coordinator is authorized to charge for copies of all APA-related documents. (7-1-93)

01. Cost Of Individual Rule Chapters. The prices to be charged for chapters of rules or portions thereof shall not exceed the larger of five dollars (\$5), or ten cents (\$.10) per page. (7-1-97)

02. Cost Of Certified Rules. Certified rules shall be provided without charge and shall include an affidavit of certification, notarized by the coordinator, and a copy of specific rules in effect on a specific date after July 1, 1993. (7-1-97)

03. Cost Of The Administrative Bulletin. The prices to be charged for twelve (12) individually bound volumes of the Bulletin in the form of an annual subscription shall not exceed ~~three~~ four hundred dollars (~~\$340~~) per year. The price for monthly issues shall not exceed the larger of ~~thirty~~ forty dollars (~~\$340~~) per volume or ~~ten~~ twenty cents (~~\$.20~~) per page, plus sales tax, if applicable. (7-1-99)()

04. Cost Of The Administrative Code. The prices to be charged for a set of the Administrative Code in the form of an annual subscription shall not exceed ~~three~~ four hundred and fifty dollars (~~\$3450~~) plus sales tax, if applicable, per year. Individual copies of the Administrative Code may be purchased but are subject to availability. The cost per volume shall not exceed seventy-five dollars (\$75). (7-1-99)()

05. Free Distribution Of Hard-Copy Documents. In accordance with Section 67-5205(2), Idaho Code, the coordinator shall distribute copies free of charge as follows: (7-1-97)

a. One (1) to each county clerk for the use of the county law library. (7-1-93)

b. One (1) each to the senate and the house of representatives. (7-1-93)

c. One (1) to the attorney general. (7-1-93)

d. One (1) to the legislative council. (7-1-93)

e. One (1) each to the state universities and colleges, and one (1) to each community college. (7-1-93)

f. One (1) to the state law library. (7-1-93)

g. One (1) to the state library. (7-1-93)

h. One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Library, Northwest Nazarene College Library and Twin Falls Public Library. (9-7-94)

06. Other Free Documents. The coordinator may distribute free copies for official use and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. (7-1-93)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0205

NOTICE OF RULEMAKING

VACATION OF PROPOSED RULE AND EXPIRATION OF TEMPORARY RULE

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 number. The temporary rule adopted under this docket expired at the end of the 2003 legislative session. The action is authorized by Sections 39-105, 39-107, and 39-3601 *et seq.*, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for vacating the proposed rule:

In August 2002 the Board of Environmental Quality adopted a temporary rule proposing a method for calculating reasonable potential to exceed in NPDES permitting, and the Department of Environmental Quality solicited public comment on the rule by publishing a proposed rule. Idaho Administrative Bulletin, Vol. 02-8, August 7, 2002. The proposed rulemaking has been vacated due to a disagreement between the state and EPA over whether the proposal was a permitting rule that EPA should promulgate or a water quality standard that should be promulgated by the state of Idaho. Pursuing NPDES primacy will resolve the issue. The temporary rule did not remain in effect beyond the conclusion of the 2003 session of the Idaho Legislature and is null and void and of no force and effect.

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, contact David Mabe at (208)373-0502 or dmabe@deq.state.id.us.

DATED this 5th day of June, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0302

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapter 1, Title 39, Idaho Code and Chapter 21, Title 37, Idaho Code. In addition, states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.12(b) through (d) to adopt within two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 141.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 16, 2003. If no such written request is received, a public hearing will not be held.

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 U.S. Environmental Protection Agency promulgated minor revisions to the Public Notification Rule and the Consumer Confidence Rule on November 27, 2002. These rules are national primacy drinking water regulations. As a state that has primacy for administering the Safe Drinking Water Act, Idaho must adopt these minor revisions within two years. The purpose of this rulemaking is to adopt these federal regulations by reference into the state rules.

Public Notification Rule: The Public Notification Rule requires public water systems to send notifications alerting their customers to drinking water system violations, waterborne emergencies, and other issues of potential concern. The minor revisions to this rule change the language for the health effects of two contaminants found in drinking water as listed in 40 CFR 141, Subpart Q.

Consumer Confidence Rule: The Consumer Confidence Rule requires community water systems to distribute annual water quality reports to their customers. The minor revisions to this rule change the language for the health effects of two contaminants found in drinking water as listed in 40 CFR 141, Subpart O. In addition, the Consumer Confidence Rule revisions include minor changes to address errors in the list of major health sources for copper and the rearrangement of regulatory and health effects language for disinfection byproducts within 40 CFR 141, Subpart O.

This rulemaking also deletes two subsections that are repetitive or no longer necessary (Subsections 301.06 and 400.05). Subsection 301.06 is repetitive of Subsection 150.06 because they both incorporate by reference 40 CFR 141.175. Subsection 400.05 is no longer necessary because the federal regulation incorporated by reference at 400.05 (40 CFR 143.5) is now included in 40 CFR 141, Subpart Q, which is incorporated by reference at Subsection 150.02.b. In addition, incomplete CFR citations found in Section 400 have been completed by adding the revision dates for those citations.

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

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2003 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2004 session of the Idaho Legislature.

SECTION 39-107D, IDAHO CODE STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at

www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Tom Aucutt at (208)373-0502, taucutt@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 30, 2003.

DATED this 15th day of May, 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
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0302

150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.

01. Reporting Requirements. 40 CFR 141.31, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

02. Public Notification. 40 CFR 141, Subpart Q, revised as of July 1, 2002~~3~~, is herein incorporated by reference. (~~5-3-03~~)()

03. Record Maintenance. 40 CFR 141.33, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

04. Unregulated Contaminant Reporting And Public Notification. 40 CFR 141.35, revised as of July 1, 2003, is herein incorporated by reference. (~~10-1-93~~)()

05. Reporting And Record Keeping For The Interim Enhanced Surface Water Treatment Rule. 40 CFR 141.175, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

06. Reporting And Record Keeping Requirements For The Disinfectants And Disinfectant Byproducts Rule. 40 CFR 141.134, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

151. CONSUMER CONFIDENCE REPORTS. 40 CFR Part 141, Subpart O, revised as of July 1, 2002~~3~~, is herein incorporated by reference. (~~5-3-03~~)()

(BREAK IN CONTINUITY OF SECTIONS)

301. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING TEN THOUSAND OR MORE PEOPLE.

This Section incorporates, 40 CFR Part 141, Subpart P, of the National Primary Drinking Water Regulations, known as the Interim Enhanced Surface Water Treatment Rule. (4-5-00)

01. General Requirements. 40 CFR 141.170, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

02. Criteria For Avoiding Filtration. 40 CFR 141.171, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

03. Disinfection Profiling And Benchmarking. 40 CFR 141.172, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

04. Filtration. 40 CFR 141.173, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

05. Filtration Sampling Requirements. 40 CFR 141.174, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

~~**06. Reporting And Record Keeping.** 40 CFR 141.175, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

400. SECONDARY MCLS.

01. Purpose. 40 CFR 143.1, revised as of July 1, 2003, is herein incorporated by reference. (10-1-03)()

02. Definitions. 40 CFR 143.2, revised as of July 1, 2003, is herein incorporated by reference. (10-1-03)()

03. Secondary Maximum Contaminant Levels. 40 CFR 143.3, revised as of July 1, 2003, is herein incorporated by reference. (10-1-03)()

04. Monitoring. 40 CFR 143.4, revised as of July 1, 2003, is herein incorporated by reference. (10-1-03)()

~~**05. Compliance And Public Notification.** 40 CFR 143.5 is herein incorporated by reference. (10-1-03)~~

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

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

DOCKET NO. 59-0103-0302

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5222(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 July 16, 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:

Section 59-1322(1), Idaho Code, requires the Board to establish contribution rates to properly fund benefits, with certain restrictions. The Retirement Board has determined, based on actuarial valuation of reserves and liabilities that it is necessary to increase contribution rates back to the levels that existed prior to November 1, 1997. These increases are necessary due, in part, to the poor performance of financial markets over the last three (3) years. The rate increase will be phased in equally over a three (3) year period (about one percent per year) beginning July 1, 2004, with subsequent increases on July 1, 2005 and July 1, 2006. These increases will affect both employers and employees since, by law, contributions are allocated 37.5 percent to employees and 62.5 percent to employers. Further adjustments in rates may be necessary depending on future market conditions.

Also included is a technical amendment to the title in Rule 1, and an amendment to Rule 2 to reflect the new address of PERSI's Coeur d'Alene office. A new subsection is added to Rule 27 to clarify the contribution rate applicable to certain general members (class E members) who are "paid firefighters" for purposes of excess merger costs under the Firemen's Retirement Fund but who are not considered PERSI firefighters for benefit purposes. Rule 114 is amended to clarify eligibility while the member is on a leave of absence occasioned by an approved worker's compensation claim. Rule 176 is amended to make it consistent with recent changes to Section 59-1325, Idaho Code, requiring payment of contributions within five (5) days of each pay date.

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th day of May, 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 THE TEXT OF DOCKET NO. 59-0103-0302

**59.01.03 - PERSI CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE
RETIREMENT SYSTEM OF IDAHO (PERSI)**

001. TITLE AND SCOPE (Rule 1).

The title of this chapter is IDAPA 59.01.03, "PERSI Contribution Rules" *Regarding Contributions.* ~~(1-1-94)~~(____)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (Rule 2).

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office
607 North Eighth Street
Boise, Idaho 83702
Phone: 208/334-3365 or 1-800-451-8228
Fax: 208/ 334-4026

PERSI Pocatello Office
850 E. Center, Suite D
Pocatello, Idaho 83201
Phone: 208/236-6225 or 1-800-762-8228
Fax: 208/236-6159

PERSI Coeur d'Alene Office
2005 Ironwood Parkway, Suite ~~14226~~
Coeur d'Alene, Idaho 83814
Phone: 208/769-1474 or 1-800-962-8228
Fax: 208/769-1476

~~(5-6-94)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (Rule 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven percent (11.00%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point sixty-one percent (11.61%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, 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)~~(____)

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-six percent (36%) of payroll,~~ as follows:

| Option I And II Firefighters | |
|-------------------------------------|---|
| PERSI Employer Contribution Rate: | Ten point one-one <u>eleven</u> percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll 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-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be thirty-seven point twenty-three percent (37.23%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be thirty-seven point eighty-four percent (37.84%) of payroll until next determined by the Board. |

(7-1-03)F()

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 thirty-five percent (27.35%) of payroll~~, as follows:

| Class D Firefighters | |
|-----------------------------------|---|
| PERSI Employer Contribution Rate: | Ten point one-one <u>eleven</u> percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll 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 thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be twenty-eight point fifty-eight percent (28.58%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be twenty-nine point nineteen percent (29.19%) of payroll until next determined by the Board. |

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) (Amended 7-1-03) (7-1-03)F()

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. ()

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 officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point ~~one-one~~ eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) 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) (~~Amended 7-1-03~~) (____)

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2005. Beginning July 1, 2005, the rate shall be six point sixty percent (6.60%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be six point ninety-seven percent (6.97%) of salary 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~~) (____)

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2005. Beginning July 1, 2005, the rate shall be eight point zero-nine percent (8.09%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be eight point fifty-three percent (8.53%) of salary 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~~) (____)

(BREAK IN CONTINUITY OF SECTIONS)

114. CONTRIBUTIONS DUE WHILE MEMBER IS RECEIVING WORKER'S COMPENSATION (Rule 114).

01. Contributions Due And Payable. Contributions are due and payable on whatever percentage of salary is paid while the member is on a leave of absence occasioned by an approved worker's compensation claim and the member will be entitled to a month of membership service credit for each month the member remains ~~in this circumstance~~ eligible. (~~1-1-94~~) (____)

02. Accruing Service. This means for an employee to continue accruing service the employer must continue to pay salary equal to the lesser of: (____)

a. The amount necessary to meet the statutory definition of employee (half-time at the pre-injury rate or more), or (____)

b. The employee's full-time salary less the employee's worker's compensation income benefit. (____)

03. Maintaining Eligibility For Injured Workers. The intent of this rule is to permit employers to maintain eligibility for injured workers without having to pay salary that, when added to the employee's worker's compensation income benefit, would exceed the employee's total salary prior to the injury. Eligibility Rule 122 is inapplicable to the extent it conflicts with this rule. ()

(BREAK IN CONTINUITY OF SECTIONS)

176. TRANSFER OF CONTRIBUTIONS TO PERSI (Rule 176).

Employee and employer contributions shall be calculated and forwarded to PERSI by each employer for each employee that meets the statutory definition of "employee" as defined in Section 59-1302 (14), Idaho Code. All Contributions shall be remitted, together with an approved report to PERSI no later than ~~twenty five~~ five (205) days after each pay date as provided in Section 59-1325(1), Idaho Code. (~~3-30-01~~)()

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

IDAPA 01 – IDAHO BOARD OF ACCOUNTANCY PO Box 83720, Boise, ID 83720-0002

01-0101-0301, Idaho Accountancy Rules. Licenses lapse if not renewed within 30 days of deadline; requires licensees to disclose discipline taken against their license in another state; grants practice privileges to other states' licensees licensed in 4 of the last 10 years; provides for the reinstatement of an inactive or retired license; and allows licensees to elect inactive or retired status at any time. Comment by: 7/23/03.

01-0101-0302 - Adds definitions; clarifies application, notification, and CPA exam scheduling processes, and educational requirements to sit for exam; specifies CPA Exam content; provides for reporting of grades, setting passing score, granting credit, and a transition process to computerized exam; updates cheating rules and addresses security concerns; sets original exam application fee at \$100 and \$50 for a re-exam. Comment by: 7/23/03.

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

02-0616-0301, Crop Residue Disposal Rules. Removes the registration exemption for Kootenai and Benewah Counties; requires a \$1 registration fee; adds a violations section; and requires annual registration of all fields regardless of crop type. Comment by: 7/23/03.

02-0626-0301, Rules Concerning Seed Potato Crop Management Areas. Defines geographic boundaries for a new Seed Potato Crop Management Area in Blaine County. Comment by: 7/23/03.

02-0640-0301, Rule Governing Ginseng Export. Changes the title and legal authority for the rule and eliminates the requirement for a management area. Comment by: 7/23/03

IDAPA 09 – IDAHO DEPARTMENT OF LABOR 317 W. Main St., Boise, ID 83735

09-0130-0301, Rules of the Benefits Bureau. Allows benefit claimants to file weekly or biweekly reports electronically or use current filing methods. Comment by: 7/23/03.

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

16-0613-0301, Rules Governing Emergency Assistance for Families and Children. Repeal of chapter. Comment by: 7/23/03.

16-0613-0302 - Rewrite of chapter brings rules into compliance and updates and clarifies federal regulations for Title IV-A funding. Comment by: 7/23/03.

IDAPA 18- DEPARTMENT OF INSURANCE
PO Box 83720, Boise, ID 83720-0043

18-0144-0301, Schedule of Fees, Licenses and Miscellaneous Charges. Reduces license renewal fees to insurance producers who file for renewal electronically. Comment by: 7/23/03.

IDAPA 20- DEPARTMENT OF LANDS
PO Box 83720, Boise, ID 83720-0050

20-0303-0301, Rules Governing Administration of the Reclamation Fund. New chapter outlines the specifics for implementing an alternative form of reclamation assurance through the establishment of the Reclamation Fund. Comment by: 7/23/03.

IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD
1365 North Orchard, Suite 172, Boise, Idaho 83706

25-0101-0301, Rules of the Outfitter and Guides Licensing Board. Deletes out-dated provisions; sets an annual date for outfitters to complete and file license applications; establishes a date for expiration of all licenses and clarifies that applications may be submitted at any time during the year; provides for a multiple-year outfitter license beginning in 2004 and that new applicants must be licensed for 2 years before applying for 3 year license; permits hot pursuit of bear and cougar with hounds and for hot pursuit agreements with outfitters in adjoining areas; clarifies that clients in a drop camp may not be provided guided services when outside the outfitters area; requires outfitters on certain sections of the Clearwater River to have stickers affixed to boats used for anadromous fishing; and adjusts restrictions for certain rivers. Comment by: 7/23/03.

IDAPA 35 – IDAHO STATE TAX COMMISSION
PO Box 36, Boise, ID 83722-0410

35-0102-0301, Idaho Sales and Use Tax Administrative Rules. Implements statutory change by increasing sales tax to 6% and amends the schedule for collecting tax on fractions of a dollar. Comment by: 7/23/03.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129

39-0247-0301, Rules Governing Revocation of Vehicle Registration for Failure to Comply with a Motor Vehicle Emission Inspection Ordinance. Eliminates requirement to use certified mail when sending a revocation of vehicle registration for noncompliance. Comment by: 7/23/03.

39-0316-0301, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. Allows trailers used in the transport of implements of husbandry to be exempt from over-width permitting requirements. Comment by: 7/23/03.

IDAPA 44 – OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
PO Box 83720, Boise, ID 83720-0306

44-0101-0301, Rules of the Administrative Rules Coordinator. Removes references to hard-copy publications to allow for electronic publications to be recognized as official copies of the Administrative Code or Bulletin. Comment by: 7/23/03.

44-0101-0302 - Increases subscription fee for the Bulletin and Code and the cost of individual copies. Comment by: 7/23/03.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N. Hilton, Boise, ID 83706-1255

58-0108-0302, Idaho Rules for Public Drinking Water Systems. Updates CFR documents incorporated by reference that affect reporting and notification of customers to drinking water system violations, waterborne emergencies, and other concerns; deletes obsolete sections and corrects citations. Comment by: 7/23/03.

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

59-0103-0302, Contribution Rules for PERSI. Changes the rule title; increases PERSI contribution rates for general members, employer class II, firefighters and Class E members to comply with state law; clarifies eligibility while a member is on a leave of absence occasioned by an approved worker's compensation claim. Comment by: 7/23/03.

Please refer to the Idaho Administrative Bulletin, **July 2, 2003, Volume 03-7** 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

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

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

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