

# IDAHO ADMINISTRATIVE BULLETIN

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November 5, 2003 -- Volume 03-11

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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*

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*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.*

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## 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.



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## 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             | <b>*November 13, 2002</b>      | January 1, 2003   | January 22, 2003               |
| 03-2       | February, 2003            | January 1, 2003                | February 5, 2003  | February 26, 2003              |
| 03-3       | March, 2003               | February 5, 2003               | March 5, 2003     | March 26, 2003                 |
| 03-4       | April, 2003               | March 5, 2003                  | April 2, 2003     | April 23, 2003                 |
| 03-5       | May, 2003                 | April 2, 2003                  | May 7, 2003       | May 28, 2003                   |
| 03-6       | June, 2003                | April 30, 2003                 | June 4, 2003      | June 25, 2003                  |
| 03-7       | July, 2003                | June 4, 2003                   | July 2, 2003      | July 23, 2003                  |
| 03-8       | August, 2003              | July 2, 2003                   | August 6, 2003    | August 27, 2003                |
| 03-9       | September, 2003           | July 30, 2003                  | September 3, 2003 | September 24, 2003             |
| 03-10      | October, 2003             | <b>**August 20, 2003</b>       | October 1, 2003   | October 22, 2003               |
| 03-11      | November, 2003            | October 1, 2003                | November 5, 2003  | November 26, 2003              |
| 03-12      | December, 2003            | October 29, 2003               | December 3, 2003  | December 24, 2003              |

## BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2004

| Volume No. | Monthly Issue of Bulletin | Closing Date for Agency Filing | Publication Date  | 21-day Comment Period End Date |
|------------|---------------------------|--------------------------------|-------------------|--------------------------------|
| 04-1       | January, 2004             | <b>*November 19, 2003</b>      | January 7, 2004   | January 28, 2004               |
| 04-2       | February, 2004            | January 7, 2004                | February 4, 2004  | February 25, 2004              |
| 04-3       | March, 2004               | February 4, 2004               | March 3, 2004     | March 24, 2004                 |
| 04-4       | April, 2004               | March 3, 2004                  | April 4, 2004     | April 25, 2004                 |
| 04-5       | May, 2004                 | March 31, 2004                 | May 5, 2004       | May 26, 2004                   |
| 04-6       | June, 2004                | May 5, 2004                    | June 2, 2004      | June 22, 2004                  |
| 04-7       | July, 2004                | June 2, 2004                   | July 7, 2004      | July 28, 2004                  |
| 04-8       | August, 2004              | June 30, 2004                  | August 4, 2004    | August 25, 2004                |
| 04-9       | September, 2004           | July 28, 2004                  | September 1, 2004 | September 22, 2004             |
| 04-10      | October, 2004             | <b>**August 25, 2004</b>       | October 6, 2004   | October 27, 2004               |
| 04-11      | November, 2004            | October 6, 2004                | November 3, 2004  | November 24, 2004              |
| 04-12      | December, 2004            | November 3, 2004               | December 1, 2004  | December 22, 2004              |

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

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

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**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 second day of June in the year of our Lord two thousand and three, 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*

**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*

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2003-04**

**CONTINUING THE GOVERNOR'S COUNCIL ON ADOLESCENT PREGNANCY PREVENTION,  
REPLACING EXECUTIVE ORDER NO. 99-11**

---

*WHEREAS, the percentage of adolescents giving birth remains alarmingly high in Idaho; and*

*WHEREAS, the incidence of inadequate prenatal care, out-of-wedlock babies, low-birth weight babies, and infant deaths is significantly higher for adolescent mothers; and*

*WHEREAS, in 1997, approximately 2,789 Idaho females aged 10 to 19 became pregnant, at a rate of 54 pregnancies per week; and*

*WHEREAS, twenty-eight percent of Idaho's adolescent pregnancies are repeat pregnancies; and*

*WHEREAS, adolescent childbearing causes delays in school completion or alters the young mother's aspirations for home, school, or career; and*

*WHEREAS, it is in the best interest of all Idahoans to prevent unintended adolescent pregnancies; and*

*WHEREAS, the most effective response to the problems of adolescent pregnancy is to prevent adolescents from becoming sexually active;*

*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 continue the Governor's Council on Adolescent Pregnancy Prevention.*

*The duties of the Council shall include:*

- 1. Development and implementation of a statewide campaign focused on delaying sexual activity by adolescents, and*
- 2. Assessing the impact of the campaign on reducing the rate of adolescent pregnancy and reporting the results annually.*

*The Council shall be limited to no more than 19 members appointed by the Governor.*

*The members shall serve two-year terms. A chair of the Council shall be appointed annually by the Governor.*

*The Council members shall include persons representing:*

*Public health/welfare  
Education  
Clergy  
Private business  
Parents  
Adolescents  
Local elected officials  
Health care providers  
Media*

*The Department of Health and Welfare will provide administrative support to the Council.*

*This Order replaces Executive Order No. 99-11.*



*This Executive Order shall cease to be effective four years after its entry into force*



*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 eighth day of July 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. 2003-05**

**ESTABLISHING THE IDAHO COUNCIL ON CHILDRENS MENTAL HEALTH  
REPEALING AND REPLACING EXECUTIVE ORDER 2001-15**

---

*WHEREAS, children with serious emotional disturbances have unique abilities, concerns and diverse needs; and*

*WHEREAS, serious emotional disturbances interfere with the vital development and maturation of our state's most important resource - its children; and*

*WHEREAS, the appropriate treatment of children and youth with serious emotional disturbances is cost-effective because it enhances productivity, reduces utilization of more costly and invasive service, lessens social dependence and family disruption; and*

*WHEREAS, the State of Idaho desires to establish a comprehensive, community-based system of care emphasizing the natural support that families and peers provide; and*

*WHEREAS, these families would benefit from individualized services which are acceptable and accountable to them and others in the communities where they live; and*

*WHEREAS, children and youth with serious emotional disturbances and their families have the right to, and responsibility for, ongoing participation in determining their destiny at the direct service level and at the policy and planning level; and*

*WHEREAS, the Idaho Legislature has set forth its policy for the provision of these services in the Idaho Children's Mental Health Services Act; and*

*WHEREAS, the implementation plan formulated from the recommendations of "The Needs Assessment of Idaho's Children with Serious Emotional Disturbances and Their Families" proposes that the Idaho Council on Children's Mental Health be established to provide state level leadership in the development of an integrated system of care for children with mental health needs.*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby establish the Idaho Council on Children's Mental Health.*

*The Council's responsibilities shall be:*

*To oversee the implementation of the plan and the legislative policy for the provision of access to treatment, prevention, and rehabilitation services for children with serious emotional disturbances;*

*To serve as a vehicle for inter- and intra-agency policy and program development;*

*To establish local level councils according to resources, population, need and geographic considerations;*

*To define the specific key duties, powers, goals, and outcomes to be achieved by the local councils;*

*To provide leadership through the development of standards, provision of technical assistance, monitoring, evaluating and reporting on the progress of the local councils; and*

*To evaluate and make recommendations regarding the funding and delivery of children's mental health*

services statewide.

*Council membership shall be composed of representatives from the following:*

*The Office of the Governor;  
The Legislative branch;  
The Judicial branch;  
The Department of Health and Welfare;  
The Department of Juvenile Corrections;  
The Department of Education;  
The State Planning Council on Mental Health;  
A parent representative or advocate;  
A parent;  
A representative of providers of children's mental health services;  
A county commissioner;  
A Tribal representative;  
A representative of the Hispanic community; and  
A representative of the statewide regions of the Idaho Council on Children's Health.*

*This Executive Order shall cease to be in effect four years after its entry into force.*

*Council members shall serve a term of two (2) years. The members may serve additional terms. The Governor shall appoint the Lieutenant Governor to serve as the Chairman of the Council. Staff for the Council will be provided by the Department of Health and Welfare. The Council may establish subcommittees at its discretion.*



*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 twenty-third day of June 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. 2003-06**

**PROHIBITION OF THE USE OF STATE FUNDS FOR MEMBERSHIP IN PROFESSIONAL  
ASSOCIATIONS BY STATE EMPLOYEES**

---

*WHEREAS, there is need for a uniform state policy regarding the payment of professional dues, fees, and memberships for state employees. I find it is prudent to continue the policy for all state employees in the Executive Department that was promulgated by Executive Order No. 81-11.*

*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:*

*No state money shall be used to pay for any kind of professional, occupational, or trade license, certificate, permit, or occupational registration for any state employee or officer; nor shall any state monies be used to pay for any kind of dues to any professional, occupational, or trade association in which membership is restricted to persons who are licensed, certified, or registered under Idaho law. This policy does not preclude the state or state departments from paying dues to organizations relating to their responsibilities in state government, or where such dues are part of a requirement of employment.*



*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 twenty-third day of June 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.*

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**DIRK KEMPTHORNE  
GOVERNOR**

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**BEN YSURSA  
SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2003-10**

**CONSOLIDATION OF PREPAREDNESS, RESPONSE, RECOVERY AND MITIGATION FUNCTIONS  
CURRENTLY VESTED IN THE DIVISION OF MILITARY, BUREAU OF HAZARDOUS MATERIALS AND  
BUREAU OF DISASTER SERVICES AND THE EMERGENCY PREPAREDNESS, RESPONSE, AND  
RECOVERY CAPABILITY OF THE INEEL STATE OVERSIGHT PROGRAM**

**FORMATION OF A BUREAU OF HOMELAND SECURITY**

**REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-04**

---

WHEREAS, widespread disaster resulting from floods, fire, storms, earthquakes, hazardous materials, tornados, landslides, mudslides, drought, explosions, riot, hostile military actions, the potential terrorist use of chemical, biological, radiological, nuclear and explosive Weapons of Mass Destruction or other catastrophe is an ever present possibility in the State of Idaho; and

WHEREAS, Chapter 10, Title 46, Idaho Code requires the protection of lives and property of the residents of the State in any type of natural or man-made disaster emergency or threat that might conceivably confront the state; and

WHEREAS, Chapter 71, Title 39, Idaho Code provides for the prompt response and containment of releases of hazardous materials; and

WHEREAS, the United States Government has taken steps to organize federal agencies to plan, train and respond to domestic and foreign terrorist attacks; and

WHEREAS, the United States Congress has appropriated funding to allow local, regional, state, and federal agencies to prepare for and respond to such crises; and

WHEREAS, centralized coordination and communication among preparedness and response entities at the local, state, regional, and federal levels are paramount to ensuring the safety of our citizens.

NOW THEREFORE, I, Dirk Kempthorne, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State, and in accordance with the provisions of Idaho Code Chapter 10, Title 46; Chapter 71, Title 39 and Chapter 10, Title 30 do hereby direct:

1. That a Bureau of Homeland Security be formed in the Office of the Governor, Division of Military.
2. That the Bureau of Homeland Security manage the Bureau of Disaster Services and the Bureau of Hazardous Materials.
3. That the Office of Adjutant General act as Chief, Idaho Bureau of Homeland Security and appoint a director of the bureau in consultation with the Office of the Governor and who shall act as director of the Bureau of Disaster Services and the Bureau of Hazardous Materials.
4. That Executive Order No. 2000-04 is hereby repealed and replaced in order to consolidate all functions required of the Bureau of Hazardous Materials and Bureau of Disaster Services within the Bureau of Homeland Security.
5. That the Division of Military recommend to the Office of the Governor the necessary statutory changes to render permanent the contents of this executive order.



*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 twelfth day of September 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.*

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*DIRK KEMPTHORNE*  
*GOVERNOR*

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*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 - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-204(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 15 through 19.

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

DATED this 7th day of October, 2003.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
1109 Main Street, Owyhee Plaza Suite 470  
PO Box 83720  
Boise, Idaho 83720-0002  
Phone: 208-334-2490  
Fax: 208-334-2615  
E-mail: bporter@boa.state.id.us

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### **IDAPA 01, TITLE 01, CHAPTER 01**

#### **IDAHO ACCOUNTANCY RULES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 15 through 19.**

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

# **IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY**

## **01.01.01 - IDAHO ACCOUNTANCY RULES**

**DOCKET NO. 01-0101-0302**

### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-204(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 20 through 26.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 67-5205(2) and 67-5206, Idaho Code.

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.

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

DATED this 7th day of October, 2003.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
1109 Main Street, Owyhee Plaza Suite 470  
PO Box 83720, Boise, Idaho 83720-0002  
Phone: 208-334-2490 / Fax: 208-334-2615  
E-mail: bporter@boa.state.id.us

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## **IDAPA 01, TITLE 01, CHAPTER 01**

### **IDAHO ACCOUNTANCY RULES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 20 through 26.**

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



## IDAPA 04 - OFFICE OF THE ATTORNEY GENERAL

### 04.20.01 - RULES IMPLEMENTING THE IDAHO TOBACCO MASTER SETTLEMENT AGREEMENT COMPLEMENTARY ACT

DOCKET NO. 04-2001-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the amendments to the temporary rule is September 10, 2003. This pending rule has been adopted by the Attorney General and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Attorney General has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 39-7807(4), Idaho Code.

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

The pending rule is necessary to effectively implement and enforce Idaho's Tobacco Master Settlement Agreement Complementary Act (the Act), effective July 1, 2003. This rule was adopted to effect the purposes for which the Legislature adopted this Act, which is to prevent violations of Idaho's Tobacco Master Settlement Agreement Act and thereby safeguard the master settlement agreement, the fiscal soundness of the State and the public health.

The temporary rule and the proposed rule have been amended to clarify the appeals process for Attorney General determinations related to the removal or exclusion from the directory of a brand family or nonparticipating tobacco product manufacturer; provide additional grounds for when a nonparticipating tobacco product manufacturer must provide quarterly certifications and make quarterly escrow deposits; describe with more detail the deadlines for providing notice related to quarterly certifications and quarterly deposits; set forth the consequences for untimely or incomplete quarterly certifications and quarterly escrow deposits; address the status of the directory for the time period July 1, 2003 to September 1, 2003; provide for the giving of notice to stamping agents and tobacco product manufacturers prior to the Attorney General removing a brand family or tobacco product manufacturer from the directory; and make clear that the tobacco product manufacturer bears the burden of proof to establish that it or a particular brand family is entitled to be listed in the directory.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Attorney General amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes different from the proposed rule are printed in this bulletin. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, pages 21 through 25.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendments to the temporary rule, contact Brett T. DeLange, Deputy Attorney General at 334-4114.

DATED this 10th day of September, 2003.

Brett T. DeLange, Deputy Attorney General  
Office of the Attorney General  
Consumer Protection Unit  
P.O. Box 83720, Boise, Idaho 83720-0010

IDAPA 04, TITLE 20, CHAPTER 01

RULES IMPLEMENTING THE IDAHO TOBACCO MASTER SETTLEMENT  
AGREEMENT COMPLEMENTARY ACT

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 03-8, August 6, 2003, pages 21 through 25.

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. 04-2001-0301

*Section 004 (Complete Section)*

**004. ADMINISTRATIVE APPEALS (Rule 4).**

Except as provided by CAR 200 and Section 39-8407(1), Idaho Code, ~~there is no provision for administrative~~  
appeals. ~~(7-1-03)F(9-10-03)T~~

**Subchapter B -- Quarterly ~~Reports~~ Certifications and Escrow Deposits**  
(Rules 100 through 199)

*Sections 100 through 105 (Complete Sections)*

**100. QUARTERLY ~~REPORTS~~ CERTIFICATIONS AND ESCROW DEPOSITS (Rule 100).**

To promote compliance with Section 39-7803(b), Idaho Code, the Attorney General may require nonparticipating  
manufacturers quarterly to certify their compliance with the Idaho tobacco master settlement agreement act. The  
Attorney General may also require nonparticipating manufacturers to make the escrow payments required by Section  
39-7803(b), Idaho Code, in quarterly installments during the year in which the sales covered by such payments are  
made. This rule applies to nonparticipating manufacturers who meet any of the following criteria:

~~(7-1-03)F(9-10-03)T~~

**01. No Previous Escrow Deposit.** Nonparticipating manufacturers that have not previously  
established and funded a qualified escrow fund in Idaho; (7-1-03)T

**02. No Escrow Deposit For More Than One Year.** Nonparticipating manufacturers that have not  
made any escrow deposits for more than one (1) year; (7-1-03)T

**03. Untimely Or Incomplete Deposits.** Nonparticipating manufacturers that have failed to make a  
timely and complete escrow deposit for any prior calendar year; ~~and~~ ~~(7-1-03)F(9-10-03)T~~

**04. Outstanding Judgments.** Nonparticipating manufacturers that have failed to pay any judgment,

including any civil penalty;

~~(7-1-03)~~(9-10-03)T

**05. Large Sales Volume.** Nonparticipating manufacturers that have more than one million six hundred thousand (1,600,000) of their cigarettes sold during a quarter; and (9-10-03)T

**06. Other Reasonable Cause.** In addition to the reasons specified above, the Attorney General may require quarterly escrow deposits from a nonparticipating manufacturer if the Attorney General has reasonable cause to believe the nonparticipating manufacturer may not make its full required escrow deposit by April 15 of the year following the year in which the cigarettes sales were made. (9-10-03)T

**101. DEADLINE FOR QUARTERLY ~~REPORTS~~ ESCROW DEPOSITS (Rule 101).**

Nonparticipating manufacturers who are required to ~~submit quarterly reports~~ make quarterly escrow deposits must do so no later than thirty (30) days after the end of the quarter in which the sales are made. For example, the deadline for making a quarterly escrow deposit for cigarette sales occurring in February is April 30 of the same year.

~~(7-1-03)~~(9-10-03)T

**102. DEADLINE FOR SUBMITTING QUARTERLY CERTIFICATION AND NOTIFYING ATTORNEY GENERAL OF QUARTERLY ESCROW DEPOSIT (Rule 102).**

Nonparticipating manufacturers who are required to make quarterly escrow deposits, must provide the Attorney General with official notification of the quarterly escrow deposit no later than ten (10) days after the deadline for which an escrow deposit is required. Nonparticipating manufacturers must also provide their quarterly certifications within the same deadline. For example, the deadline for certifying and officially notifying the Attorney General of a quarterly escrow deposit for sales of cigarettes that occurred in February is May 10 of the same year. (9-10-03)T

**103. QUARTERLY PERIODS DEFINED (Rule 103).**

For purposes of this subchapter, the calendar year shall be divided into the following quarters: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31. (9-10-03)T

**104. UNTIMELY OR INCOMPLETE QUARTERLY CERTIFICATION OR QUARTERLY ESCROW DEPOSIT (Rule 104).**

If the required quarterly escrow deposit is not timely made in full, or the required quarterly certification is not provided to the Attorney General, or the Attorney General does not receive timely official notice of the quarterly escrow deposit, the delinquent nonparticipating manufacturer and its brand families may be removed from the directory. (9-10-03)T

**1025. -- 199. (RESERVED).**

**Section 300 (Partial Section)**

**300. DIRECTORY (Rule 300).**

The Attorney General shall develop, maintain and publish the directory, which shall list all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of Section 39-8403(1), Idaho Code, and all brand families that are listed in such certifications; provided, however,

~~(7-1-03)~~(9-10-03)T

**Section 302 (Complete Section)**

**302. DIRECTORY FOR JULY 1, 2003 TO SEPTEMBER 1, 2003 (Rule 302).**

For the time period July 1, 2003 to September 1, 2003, the directory shall be deemed to be every participating manufacturer and every nonparticipating manufacturer who has established and properly funded a qualified escrow fund for Idaho. (7-1-03)T

**01. Participating Manufacturers In Directory.** The Attorney General maintains a list, ~~located at: [http://www.naag.org/upload/1054832000\\_PM\\_list.pdf](http://www.naag.org/upload/1054832000_PM_list.pdf)~~ identifies available for inspection, of every participating manufacturer for the time period July 1, 2003 to September 1, 2003. ~~(7-1-03)~~(9-10-03)T

**02. Nonparticipating Manufacturers In Directory.** Attorney General maintains a list, located at: <http://www2.state.id.us/ag/consumer/tobacco/escrowlist.pdf> identifies available for inspection, of every nonparticipating manufacturer ~~who has~~ which, for the time period July 1, 2003 to September 1, 2003, established and properly funded a qualified escrow fund for Idaho. ~~(7-1-03)T~~(9-10-03)T

**Sections 303 through 308 (Complete Sections)**

**303. DIRECTORY UPDATES (Rule 303).**

The Attorney General shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand families to keep the directory in conformity with the requirements of this chapter and Section 39-8403, Idaho Code. ~~(7-1-03)T~~(9-10-03)T

**304. DIRECTORY UPDATE NOTICES -- STAMPING AGENTS (Rule 304).**

The Attorney General shall transmit by electronic mail, if possible, or by other means as are reasonable to each stamping agent, notice of the addition to, or removal from, the directory of any tobacco product manufacturer or brand family. With respect to notices of removal from the directory, such notice shall be provided ten (10) calendar days prior to the Attorney General removing the tobacco product manufacturer or its brand family or both from the directory. ~~(9-10-03)T~~

**305. DIRECTORY UPDATE NOTICES -- TOBACCO PRODUCT MANUFACTURER -- ADDITION (Rule 305).**

The first time a tobacco product manufacturer complies with Section 39-8403(1), Idaho Code, the Attorney General shall notify by mail the tobacco product manufacturer of such compliance and that it will be added to the directory. The notice shall also indicate each brand family of the tobacco product manufacturer that the Attorney General has determined will be added to the directory. ~~(9-10-03)T~~

**306. DIRECTORY UPDATE NOTICES -- TOBACCO PRODUCT MANUFACTURER -- NONINCLUSION OR REMOVAL (Rule 306).**

The Attorney General shall notify by certified mail to the tobacco product manufacturer's agent for service of process of any decision not to include in or to remove from the directory the tobacco product manufacturer, a brand family of the tobacco product manufacturer, or both. With respect to notices of removal from the directory, such notice shall be provided ten (10) calendar days prior to the Attorney General taking action as provided in the notice. ~~(9-10-03)T~~

**307. BURDEN OF ESTABLISHING ENTITLEMENT TO BE LISTED IN THE DIRECTORY (Rule 307).**

The burden of proof shall be on the tobacco product manufacturer to establish that it or a particular brand family is entitled to be listed in the directory. ~~(9-10-03)T~~

**3048. -- 999. (RESERVED).**

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION,  
AND AIR CONDITIONING SYSTEMS**

**DOCKET NO. 07-0701-0301 (FEE RULE)**

**NOTICE OF PUBLIC HEARING**

**AUTHORITY:** In compliance with Section 67-5222(2), Idaho Code, and IDAPA 04.011.01.833, notice is hereby given that this agency received a timely request for oral presentation signed by twenty-five (25) persons and, in response, has scheduled a public hearing and extended the period of public comment.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**Thursday, November 13, 2003  
10 a.m. to 11 a.m.  
Red Lion Hotel  
1555 Pocatello Creek Road  
Pocatello, Idaho**

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

**DESCRIPTIVE SUMMARY:** The summary of this action is found in Idaho Administrative Bulletin Volume 03-10, dated October 1, 2003, pages 49 through 55.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking or the hearing scheduled, contact Dave Munroe, Administrator, at (208) 332-7100.

DATED this 16th day of October, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 332-7100  
Fax: (208) 855-2164

# IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0301

### NOTICE OF RULEMAKING - PENDING RULE

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1501 through 33-1512 and 33-1006, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Only the sections that have changes different from the proposed rule are printed in this bulletin.

The rule change clarifies current rule language related to Sixty-Day Inspections and Withdraw from Service Authority, in accordance with Section 33-1506, Idaho Code. The rule change modifies specific school bus construction standards and approves a referenced document Standards for Idaho School Buses and Operations, October 3, 2003, in accordance with Section 33-1511, Idaho Code. The rule change removes reimbursement for routing software costs, in accordance with Section 33-1006, Idaho Code. Secondary to stakeholder input, logical and non-controversial changes between the text of the proposed rule and referenced document and the text of the pending rule and referenced document include:

- Approval date changed from October 2, 2003 to October 3, 2003;
- Referenced document establishes construction standard waiver procedure (SISBO, page 5);
- Referenced document changes brake inspection visibility requirement from mandate to recommendation (SISBO, page 6);
- Referenced document recommends multiplex wiring and allows wiring standard exemption when multiplex wiring is utilized (SISBO, pages 10 and 43);
- Referenced document removes tachometer requirement on gas powered school buses (SISBO, page 13);
- Referenced document removes visor or hood requirement under specific circumstances (SISBO, page 32);
- Referenced document allows for alternate location for static exhaust ventilation device (SISBO, page 40).

Subsequent to the Proposed Rulemaking process, which included a public hearing, the agency adopted the pending rule and approved the referenced document, Standards for Idaho School Buses and Operations, October 3, 2003 on October 3, 2003. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, pages 28 through 30.

**ASSISTANCE ON TECHNICAL QUESTIONS - OBTAINING COPIES:** For assistance on technical questions concerning the pending rule or to obtain a copy of the approved rule by reference document (Standards for Idaho School Buses and Operations), contact Rodney D. McKnight, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho, (208) 332-6851 or fax to (208) 334-3484.

DATED this 3rd day of October, 2003.

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

IDAPA 08, TITLE 02, CHAPTER 02

RULES GOVERNING UNIFORMITY

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 03-8, August 6, 2003, pages 28 through 30.

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.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0301

*Subsection 004.05*

**004. INCORPORATION BY REFERENCE.**

The State Board of Education adopts and incorporates into its rules:

(4-5-00)

**05. Incorporated Document.** The Standards for Idaho School Buses and Operations as approved on ~~November 15~~ October 3, 2003, ~~(7-1-02)~~(\_\_\_\_)

*Section 150 (Complete Section)*

**150. TRANSPORTATION.**

Minimum School Bus Construction Standards. All new school bus chassis and bodies must meet or exceed Standards for Idaho School Buses and Operations as approved on ~~November 15~~ October 3, 2003, as authorized in Section 33-1511, Idaho Code. ~~(7-1-02)~~(\_\_\_\_)

*Section 160, Subsections .01, .03, and .06*

**160. MAINTENANCE STANDARDS AND INSPECTIONS.**

**01. Safety.** School buses will be maintained in a safe operating condition at all times. Certain equipment or parts of a school bus that are critical to its safe operation must be maintained at prescribed standards. When routine maintenance checks reveal any unsafe condition identified in the Standards for Idaho School Buses and Operations as approved on ~~November 15~~ October 3, 2003, the school district will eliminate the deficiency before returning the vehicle to service. ~~(7-1-02)~~(\_\_\_\_)

**03. Sixty-Day Inspections.** At intervals of not more than sixty (60) calendar days, excluding documented out-of-use periods in excess of thirty (30) days, the board of trustees shall cause inspection to be made of each school bus operating under the authority of the board. Except that, no bus with a documented out-of-use period in excess of sixty (60) days shall be returned to service without first completing a documented sixty (60) day

inspection. Annual inspections are considered dual purpose and also meet the sixty (60) day inspection requirement. (Section 33-1506, Idaho Code) ( )

**06. Withdraw From Service Authority.** Subsequent to any federal, national, or state advisory with good cause given therefor, the district shall, under the direction of the State Department of Education, withdraw from service any bus determined to be deficient in any prescribed school bus construction standard intended to safeguard life or minimize injury. No bus withdrawn from service under the provisions of this section shall be returned to service or used to transport students unless the district submits to the State Department of Education a certification of compliance specific to the school bus construction standard in question. (Section 33-1506, Idaho Code) ( )

***Section 170 (Complete Section)***

**170. SCHOOL BUS DRIVERS AND VEHICLE OPERATION.**

All school districts and school bus drivers must meet or exceed the training, performance and operation requirements delineated in the Standards for Idaho School Buses and Operations as approved on ~~November 15~~ October 3, 2007. (Section 33-1508; 33-1509, Idaho Code) ~~(7-1-02)~~( )

***Section 190 (Complete Section)***

**190. PROGRAM OPERATIONS.**

School district fiscal reporting requirements as well as reimbursable and non-reimbursable costs within the Pupil Transportation Support Program, including but not limited to administration, field and activity trips, safety busing, contracting for transportation services, leasing of district-owned buses, insurance, ineligible and non-public school students, ineligible vehicles, capital investments including the purchasing of school buses and equipment, and commercial computerized routing and scheduling software shall be delineated in Standards for Idaho School Buses and Operations as approved on ~~November 15~~ October 3, 2007. (Section 33-1006, Idaho Code) ~~(7-1-02)~~( )



**IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL  
ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

**10.01.01 - RULES OF PROCEDURE**

**DOCKET NO. 10-0101-0301**

**NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume No. 03-8, pages 31 through 35.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact David L. Curtis at (208) 334-3860.

DATED this 29th day of September, 2003.

David L. Curtis, Executive Director  
Board of Registration of Professional Engineers and Professional Land Surveyors  
600 S. Orchard, Suite A  
Boise, Idaho 83705-1242  
Telephone (208) 334-3860  
Fax (208) 334-2008

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**IDAPA 10, TITLE 01, CHAPTER 01**

**RULES OF PROCEDURE**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 31 through 35.**

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

**IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

**10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY**

**DOCKET NO. 10-0102-0301**

**NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

The pending rule is being adopted in order to require registrants to communicate with their clients and be candid with them. The pending rule differs from the proposed rule in that it is less prescriptive as to the considerations which might require candor on the part of the registrant.

The pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume No. 03-8, pages 36 and 37.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact David L. Curtis at (208) 334-3860.

DATED this 29th day of September, 2003.

David L. Curtis, Executive Director  
Board of Registration of Professional Engineers and Professional Land Surveyors  
600 S. Orchard, Suite A  
Boise, Idaho 83705-1242  
Telephone (208) 334-3860  
Fax (208) 334-2008

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**IDAPA 10, TITLE 01, CHAPTER 02**

**RULES OF PROFESSIONAL RESPONSIBILITY**

**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 03-8, August 6, 2003, pages 36 and 37.

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.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 10-0102-0301

*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

*Subsection 005.06*

**005. RESPONSIBILITY TO THE PUBLIC.**

**06. Obligation To Communicate And Be Candid.** ( )

**a.** A Registrant shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information. ( )

**b.** A Registrant shall *explain a matter to the extent* reasonably necessary to permit the client to make informed decisions regarding matters over which the client has control and responsibility. ( )

**c.** A Registrant shall exercise independent professional judgment and render candid advice that may be relevant to the matters. ( )

## **IDAPA 11 - IDAHO STATE POLICE**

### **11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

**DOCKET NO. 11-1101-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 92 through 94.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael N. Becar at (208) 884-7251.

DATED this 24th day of September, 2003.

Michael N. Becar  
Executive Director  
Idaho State Police / Peace Officer Standards and Training  
700 S. Stratford Dr.  
P.O. Box 700  
Meridian, ID 83680-0700  
(208) 884-7251 / (208) 884-7295 (FAX)

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### **IDAPA 11, TITLE 11, CHAPTER 01**

#### **RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 92 through 94.**

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

**IDAPA 11 - IDAHO STATE POLICE**  
**11.13.01 - THE MOTOR CARRIER RULES**  
**DOCKET NO. 11-1301-0301**  
**NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-2901A, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 95 through 97.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Captain Lamont Johnston at (208) 884-7221.

DATED this 26th day of September, 2003.

Colonel R. Dan Charboneau  
Director  
Idaho State Police  
700 S. Stratford Dr.  
P.O. Box 700  
Meridian, ID 83680-0700  
(2089) 884-7003 / 884-7090 (FAX)

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**IDAPA 11, TITLE 13, CHAPTER 01**

**THE MOTOR CARRIER RULES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 95 through 97.**

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

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0311

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is December 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 56-202, 56-203, 56-1003(l), and 56-1004(1)(a), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

|               |  |  |   |
|---------------|--|--|---|
| <b>Date:</b>  | <b>Thursday, November 13, 2003</b>   | <b>Tuesday, November 18, 2003</b>  | <b>Thursday, November 20, 2003</b>  |
| <b>Time:</b>  | <b>6:00 - 8:00 p.m.</b>  | <b>6:00 - 8:00 p.m.</b>  | <b>6:00 - 8:00 p.m.</b>   |
| <b>Place:</b> | <b>Region IV<br/>1720 Westgate Drive<br/>Suite D, Room 119<br/>Boise, ID</b> | <b>Region VI<br/>Human Development Center<br/>421 Memorial Drive<br/>Pocatello, ID</b> | <b>Region I<br/>333 Ironwood Drive<br/>(Ameritel Inn)<br/>Coeur d'Alene, ID</b> |

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 rule making:

The rules regarding psychosocial rehabilitation (PSR) are being changed to reflect new business practices that are a direct result of the budgetary holdbacks in SFY 2003. The resulting mandated staff reductions led to the elimination of Regional Mental Health Authority (RMHA) staff positions. Consequently, the functions of assessment and service planning have been transferred to the private mental health psychosocial rehabilitation (PSR) providers.

The rules regarding the partial care service are being changed in response to complaints from both internal and external sources that there are providers of the partial care service who are endangering the safety and well-being of program participants through their interpretation of the partial care rules.

For the PSR rules, the changes:

1. Add definitions to reflect the new business practice;
2. Specify the timeline for development of service plan following discharge from inpatient hospitalization;
3. Describe the responsibilities of the Department;
4. Describe of the responsibilities of the service provider;
5. Clarify the service description;
6. Add criminal history check as a provider qualification;
7. Add specifications for record requirements; and
8. Explain service limitations in greater detail.

For the rules regarding mental health clinics and the partial care services, the changes:

1. Expand mental health clinic provider agency requirements;
2. Add criminal history check as a provider qualification;
3. Redefine and expand the definition of the partial care service; and
4. Provide new requirements for building safety standards.

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

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226(1)(a) and (b), Idaho Code and are necessary in order to protect the public health, safety, or welfare and to

comply with deadlines in amendments to governing law or federal programs.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to the publication of the temporary and proposed rule because of the timeframes for submission. However, rule changes are being made, in part, in response to unsolicited public input. Public hearings have been scheduled during the comment period.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Pat Guidry at (208) 364-1844.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before November 26, 2003.

DATED this 30th day of September, 2003.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0311**

**401. -- 449.** (RESERVED).

**449. DEFINITIONS FOR PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR).**

- 01. Assessment Hours.** Time allotted for completion of evaluation and diagnostic services. (12-1-03)T
- 02. Demographic Information.** Information that identifies participants and is entered into the Department's database collection system. (12-1-03)T
- 03. Goal.** The desired outcome related to an identified issue. (12-1-03)T
- 04. Initial Contact.** The date a participant or parent guardian signs the request for assessment hours. (12-1-03)T
- 05. Issue.** A statement specifically describing the participant's behavior directly relating to the participant's mental illness and functional impairment. (12-1-03)T
- 06. Licensed Practitioner Of The Healing Arts.** A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. The nurse practitioner and clinical nurse specialist must have experience prescribing psychotropic medication. (12-1-03)T
- 07. Objective.** A milestone toward meeting the goal that is concrete, measurable, time-limited, and

behaviorally specific.

(12-1-03)T

**08. Psychosocial Rehabilitative Services (PSR).** Rehabilitative services provided both to children with serious emotional disturbance and to adults with severe and persistent mental illness to address functional deficits due to psychiatric illness and to restore independent living, socialization, and effective life management skills.

(12-1-03)T

**09. Tasks.** Specific, time-limited activities and interventions designed to accomplish the objectives in the service plan.

(12-1-03)T

**450. PSYCHOSOCIAL REHABILITATIVE SERVICES—~~MENTAL HEALTH.~~**

~~Pursuant to Under 42 CFR 440.130(d) and in accordance with Section 39-3124, Idaho Code, the Department shall or its designee in each region must purchase psychosocial rehabilitative services (PSR) for maximum reduction of mental disability. These services are intended to promote the highest possible functional level through restoration and skill maintenance. Rehabilitative Services, are hereafter referred to as the Psychosocial Rehabilitative Services (PSR). Eligibility for PSR services shall be assessed, plans will be developed, and services prior authorized by the Department of Health Welfare, hereinafter referred to as the Department, or its designee in each region, in accordance with Section 39-3124, Idaho Code.~~ For psychosocial rehabilitative services provided by a school district under an individualized education plan, refer to Section 560 of these rules.

~~(3-15-02)~~(12-1-03)T

**01. PSR Eligibility Criteria For Children.** A seriously emotionally disturbed child is an individual under the age of eighteen (18) who has a serious emotional disturbance (SED). The following definition of the SED target population is based on the guidelines taken from Section 1912(c) of the Public Health Services Act as amended by Public Law 102-321; the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code; and IDAPA 16.06.01, "Rules Governing Family and Children's Services".

(3-15-02)

a. Presence of an emotional or behavioral disorder, according to the DSM-IV-TR or subsequent revisions to the DSM, which results in a serious disability; and

~~(3-15-02)~~(12-1-03)T

b. Requires sustained treatment interventions; and

(3-15-02)

c. Causes the child's functioning to be impaired in thought, perception, affect, or behavior.

(3-15-02)

d. The disorder ~~shall be~~ is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment ~~shall~~ must be assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment ~~shall~~ requires a full eight (8) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales:

~~(3-15-02)~~(12-1-03)T

i. Self-Harmful Behavior;

(3-15-02)

ii. Moods/Emotions; or

(3-15-02)

iii. Thinking.

(3-15-02)

e. A substance abuse disorder, or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance.

~~(3-15-02)~~(12-1-03)T

**02. PSR Eligibility Criteria For Adults.** A severely and persistently mentally ill adult is any individual eighteen (18) years or older who has a severe and persistent mental illness. The following criteria are required to be a member of the target population based on the guidelines taken from the Federal Register pursuant to under Section 1912(c) of the Public Health Services Act and as amended by Public Law 102-321 "adults with a serious mental illness".

~~(3-15-02)~~(12-1-03)T

a. The individual must have a diagnosis under DSM-IV-TR or subsequent revisions to the DSM, of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder recurrent severe, Delusional Disorder, or Borderline Personality Disorder. ~~Also~~ The only NOS diagnosis included is



Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a more conclusive diagnosis; and  
(3-15-02)(12-1-03)T

b. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following areas on either a continuous or an intermittent (at least once per year) basis: (3-15-02)

- i. Vocational/~~academic~~ educational; (3-15-02)(12-1-03)T
- ii. Financial; (3-15-02)
- iii. Social/~~interpersonal~~ relationships/support; (3-15-02)(12-1-03)T
- iv. Family; (3-15-02)
- v. Basic living skills; (3-15-02)
- vi. Housing; (3-15-02)
- vii. Community/legal; or (3-15-02)
- viii. Health/medical. (3-15-02)

**03. PSR Eligibility Following Discharge From Psychiatric Hospitalization.** Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules, ~~shall be~~ described in Subsections 450.01.a. for children, and in 450.02.a. for adults, are considered immediately eligible for PSR ~~and a plan will be completed~~ services for a period of at least one hundred and twenty (120) days following discharge from the hospital. The service plan must be submitted to the Department or its designee within ten (10) days of discharge. (3-15-02)(12-1-03)T

**04. Place Of Service.** PSR services are to be home and community-based. (3-15-02)(12-1-03)T

a. PSR services ~~shall~~ must be provided to the ~~recipient~~ participant in his home and community whenever possible. Any other location, including a provider's office or clinic, may be used if the specific place of service is stated in the task plan and is prior authorized. (3-15-02)(12-1-03)T

b. PSR services may be provided to a ~~recipient~~ participant living in a residential ~~and~~ or assisted living facility (~~RALF~~) if the PSR services are determined by the Department or its designee to be appropriate, desired by the resident, and are not the responsibility of the ~~RALF~~ facility or another agency under the ~~RALF~~ Negotiated Service Agreement for residential or assisted living facilities. (3-15-02)(12-1-03)T

**451. RESPONSIBILITIES OF ~~REGIONS~~ THE DEPARTMENT REGARDING PSR SERVICES.**

~~Each region shall enter into a~~ The Department will administer the provider agreement ~~with the Division of Medicaid for the provision of PSR~~ for the provision of PSR services and ~~shall also be~~ is responsible for the following tasks: (3-15-02)(12-1-03)T

**01. Service System.** ~~Each region~~ The Department is responsible for the development, maintenance and coordination of ~~a regional-wide,~~ comprehensive and integrated service systems ~~including the Department and private providers.~~ (3-15-02)(12-1-03)T

**02. Service Provision.** ~~Each region shall provide PSR services directly, and through private providers with whom the Department or its designee has negotiated a Supplemental Service Agreement.~~ Assessment Authorization. The Department or its designee will review requests for assessment hours and authorize as appropriate. (3-15-02)(12-1-03)T

**03. Service Availability.** ~~Assure provision of PSR services to recipients on a twenty four (24) hour basis.~~ (3-30-01)

~~04. Comprehensive Assessment And Service Plan Development. The Department or its designee is responsible to conduct a comprehensive assessment and develop a service plan for each recipient determined eligible for PSR services. At the point a decision is made that an individual is not eligible for PSR, a Notice of Decision citing the reason(s) the recipient is not eligible for PSR services will be issued by the Department or its designee. The Notice of Decision will be sent to the adult recipient and a copy to their guardian. When the recipient is a minor child, the Notice of Decision will be sent to the minor child's parent(s) or guardian. The adult or family of the minor child will receive appropriate referrals to meet their identified needs~~ (3-15-02)

~~053. Service Plan Authorizations Requirements. All PSR services must be authorized by the Department or its designee. Service plan authorizations must include the following:~~ (3-15-02)(12-1-03)T

- ~~a. Required Documentation. The required documentation for all service plans includes:~~ (12-1-03)T
  - ~~i. Participant demographic information:~~ (12-1-03)T
  - ~~ii. A comprehensive assessment as provided in Subsection 453.01 of these rules; and~~ (12-1-03)T
  - ~~iii. A written service plan as provided in Subsection 453.02 of these rules.~~ (12-1-03)T
  - ~~iv. Adult service plans also require a rehabilitation outcome database.~~ (12-1-03)T
  - ~~v. Children's service plans also require the Child and Adolescent Functional Assessment Scale (CAFAS).~~ (12-1-03)T

~~ab. The signature of a physician, or other licensed practitioner of the healing arts within the scope of his practice under state law according to Title 54, Chapter 18, Idaho Code, is required on the service plan indicating the services are medically necessary. The date of the plan is the date it is signed by the physician. Physician's Signature and Receipt of Required Documentation. Reimbursement for services will be authorized from the date of the physician's signature if the required documentation is received by the Department or its designee within thirty (30) days from the request of assessment hours. If the documentation is received after thirty (30) days from the date of the request of assessment hours, or after the expiration of the plan, the date to begin services is the date the service plan and other required documentation are received by the Department or its designee. For the annual update, all required documentation must be received by the Department or its designee before the expiration date of the current assessment and plan. In order for a prior authorization to remain valid throughout the service plan year, documentation of the one hundred twenty (120) day reviews must comply with Subsection 457.05 of these rules.~~ (3-15-02)(12-1-03)T

~~bc. Hours and Type of Service. The Department or its designee shall must authorize the number of hours and type of services which could be reasonably expected to lead to achievement of the service plan objectives.~~ (3-15-02)(12-1-03)T

~~ed. Authorization Time Period. Service authorizations are limited to a twelve (12) month period and must be reviewed and updated at least annually.~~ (3-15-02)(12-1-03)T

~~de. No Duplication of Services. The Department or its designee shall must monitor, coordinate, and jointly plan with all known providers to a participant to prevent duplication of services provided to PSR recipients participants through other Medicaid reimbursable and non-Medicaid programs.~~ (3-15-02)(12-1-03)T

~~06. Task Plan Oversight. Task plan oversight is the responsibility of the Department or its designee.~~ (3-15-02)

~~a. The task plan shall be reviewed by the Department or its designee to assure that the tasks can be reasonably expected to lead to achievement of the objectives outlined in the service plan.~~ (3-15-02)

~~b. The recipient shall participate in the development of the task plan to the fullest extent possible.~~ (3-15-02)

~~e. The final task plan shall be reviewed, authorized and signed by the Department or its designee within ten (10) working days of receipt. (3-15-02)~~

~~d. The Department or its designee may prior authorize PSR hours for a maximum of thirty (30) days during the task plan development. (3-15-02)~~

~~07. **Minor Changes To The Task Plan.** When the Department or its designee is notified, in writing, by the provider of necessary and specific amendments to the task plan which require no change in total hours or service type, as well as the rationale for those changes, the Department or its designee shall have ten (10) working days to respond to any or all of the amendments. If no response is received, the provider shall proceed to incorporate those and only those, specific amendments to the task plan. A copy of the amended task plan shall be forwarded to the Department or its designee. While task amendments may result in reassignment of available hours among tasks, under no circumstances does this permit the provider to increase the total number of hours prior authorized. (3-15-02)~~

~~084. **Changes In Task Service Plan Hours Or Service Type.** When the Department or its designee is notified, in writing, by the provider of recommended increases in hours or change in type of service provided, the Department or its designee will must review the request and either approve or deny within ten (10) working days of receipt. A clear rationale for the change in hours or service type must be included with the request. (3-15-02)(12-1-03)T~~

~~095. **Changes To Service Plan Objectives.** When a provider believes that a service plan needs to be revised, the provider should include that recommendation and rationale in documentation of the next one hundred twenty (120) day review. The Department or its designee will review the information, and if appropriate, act on the recommendation. In the event substantial changes in the recipient's participant's mental status or circumstances occur requiring immediate changes in the plan objectives, the provider shall must notify the Department or its designee, in writing, of its recommendation and rationale for the change. The Department will have has ten (10) working days to respond to and either approve or deny the request for change. (3-15-02)(12-1-03)T~~

~~06. **Minor Changes To Service Plan Tasks.** When the Department or its designee is notified in writing by the provider of necessary and specific changes to service plan tasks that require no change in total hours or service type, a copy of the amended service plan tasks must be forwarded to the Department or its designee including rationale for those changes. The Department or its designee has ten (10) working days to respond to the changes. If no response is received, the provider may proceed to incorporate those and only those specific task changes to the service plan. While task changes may result in reassignment of available hours among tasks, under no circumstances does this permit the provider to increase the total number of prior authorized hours. (12-1-03)T~~

~~107. **Quality Of Services.** The Department or its designee shall must monitor the quality and outcomes of PSR services provided to recipients participants, in coordination with the Divisions of Medicaid, Management Services, and Family and Community Services. (3-15-02)(12-1-03)T~~

~~a. An outcome-based quality assurance review shall be conducted on each case at least annually as defined in the provider agreement. A billing audit shall be conducted through a sampling of cases. These activities shall be conducted by the Department or its designee. (3-15-02)~~

~~b. Effectiveness of services as measured by a consumer's achievement of their plan objectives will be monitored by the provider and the Department or its designee by using one hundred twenty (120) day reviews. The written reviews, including a summary of objectives met and not met by consumers, will be used to develop provider profiles to assist recipients with provider selection. (3-15-02)~~

**452. RESPONSIBILITIES OF PSR PROVIDERS.**

**01. Provider Agreement.** Each provider must enter into a provider agreement with the Division of Medicaid for the provision of PSR services and also is responsible for the following tasks: (12-1-03)T

**02. Service Provision.** Each provider must have a negotiated Supplemental Service Agreement with

the Department. (12-1-03)T

**03. Service Availability.** Each provider must assure provision of PSR services to participants on a twenty-four (24) hour basis. (12-1-03)T

**04. Comprehensive Assessment And Service Plan Development.** The provider is responsible to conduct a comprehensive assessment and develop a service plan for each participant. At the point a decision is made that a participant is ineligible for PSR services, a notice of decision citing the reason(s) the participant is ineligible for PSR services must be issued by the Department or its designee. The notice of decision must be sent to the adult participant and a copy to their guardian. When the participant is a minor child, the notice of decision must be sent to the minor child's parent(s) or guardian. The adult or family of the minor child must receive appropriate referrals to meet their identified needs. (12-1-03)T

**05. Service Plan.** The provider must develop a service plan in accordance with Subsection 453.02 of these rules. The signature of a physician, or other licensed practitioner of the healing arts within the scope of his practice under state law is required on the service plan indicating the services are medically necessary. The date of the plan is the date it is signed by the physician if all the required documentation is received by the Department or its designee within thirty (30) days of the date of the request for assessment hours. (12-1-03)T

**06. Changes To Service Plan Objectives.** When a provider believes that a service plan needs to be revised, the provider should include that recommendation and rationale in the documentation for the next one hundred twenty (120) day review. (12-1-03)T

**07. Effectiveness Of Services.** Effectiveness of services, as measured by a participant's achievement of his plan objectives, must be monitored by the provider and changes to the service plan must be initiated when service needs change or interventions are shown to be ineffective. These measures must be included on the participant's one hundred twenty (120) day review. (12-1-03)T

**08. Healthy Connections Referral Number.** Providers must obtain a Healthy Connections referral number if the participant is enrolled in the Healthy Connections program. (12-1-03)T

#### 4523. PSR SERVICE DESCRIPTIONS.

The goal of PSR services is to aid participants in work, school, family, community, or other issues related to their mental illness. It is also to aid them in obtaining developmentally appropriate skills for living independently and to prevent movement to a more restrictive living situation. All services provided must be clinically appropriate in content, service location and duration and based on measurable and behaviorally specific and achievable objectives. PSR *shall* consist of the following services: ~~(3-15-02)~~(12-1-03)T

**01. Comprehensive Assessment.** A comprehensive assessment *shall must* be completed for each *recipient participant* determined eligible for PSR. The assessment *shall must* address the *individual's participant's* strengths and supports, deficits and needs, and *shall must* be directed toward formulation of a diagnosis and written service plan including the task plan. The *recipient shall participate participant must take part* in the assessment to the fullest extent possible. The assessment *shall must* be directly related to the *individual's participant's* mental illness and level of functioning. Information from any of the *recipient's participant's* service provider(s) *shall must* be collected. The assessment and supplemental psychiatric, psychological, or other specialty evaluations and tests must be written, dated, signed and be retained in the *recipient's participant's* file. The assessment is reimbursable if conducted by a qualified provider named in Section 4556 of these rules. Each of the following areas must be assessed initially and at least annually thereafter: ~~(3-15-02)~~(12-1-03)T

**a.** Psychiatric history and current mental status including at a minimum, age at onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation the *recipient participant* manifests, the *recipient's participant's* ability to identify his symptoms, medication history, substance abuse history, history of mental illness in the family, current mental status, any other information that contributes to the assessment of ~~to~~ the *recipient's participant's* current psychiatric status. This section must contain the diagnosis documented by a licensed physician or other licensed practitioner of the healing arts within the scope of his practice under state law; ~~(3-15-02)~~(12-1-03)T

b. Medical history and current medical status which includes at a minimum, history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications, name of current primary physician; (3-15-02)

c. Vocational/Educational status which includes at a minimum, current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment. For children, this area addresses relevant school enrollment, performance, achievement levels and school-related social functioning; (3-15-02)

d. Financial status which includes at a minimum, adequacy and stability of the recipient's participant's financial status, financial difficulties of the recipient participant, resources available, and the recipient's participant's ability to manage personal finances; (~~3-15-02~~)(12-1-03)T

e. Social relationships/support which includes, at a minimum, recipient's participant's ability to establish/maintain personal support systems or relationships and recipient's participant's ability to develop leisure, recreational, or social interests; (~~3-15-02~~)(12-1-03)T

f. Family status which includes, at a minimum, the recipient's participant's ability or desire to carry out family roles, recipient's participant's perception of the support he receives from his family, and the role the family plays in the recipient's participant's mental illness. For children this area addresses the child's functioning within the family and the impact of the child's mental illness on family functioning; (~~3-15-02~~)(12-1-03)T

g. Basic living skills which include at a minimum, recipient's participant's ability to meet age appropriate basic living skills including transition to adulthood; (~~3-15-02~~)(12-1-03)T

h. Housing which includes at a minimum, current living situation and level of satisfaction with the arrangement, and appropriateness of current living situation with respect to recipient's the participant's needs, their his health and safety; ~~and~~ (~~3-15-02~~)(12-1-03)T

i. Community/Legal status which includes at a minimum, legal history with law enforcement, transportation needs, supports the recipient participant has in the community, and daily living skills necessary for community living-; and (~~3-15-02~~)(12-1-03)T

j. Health or medical issues, or both, including medical complications that result from the mental illness. (12-1-03)T

02. **Written Service Plan.** A written service plan shall must be developed and implemented for each recipient participant of PSR services as a vehicle means to address the rehabilitative service needs of the recipient participant. Services must support the goals of PSR which are maximum reduction of mental disability and achievement of the highest possible functioning level for that individual participant. For adults this means becoming independent or maintaining the highest level of independence. For children this means learning or maintaining developmentally appropriate role functioning. The service plan identifies the issue(s), goal(s), areas of need, the objectives and the total number of hours and types of services estimated to achieve all objectives based on the ability of the recipient participant to effectively utilize services. The service plan shall must be developed by the recipient participant, his family, other support systems and the Department or its designee. Service planning is reimbursable if conducted by a qualified provider, in accordance with Subsections 4556.01 through 455.12 and 455.14 of these rules. The service plan shall must be documented by the Department or its designee. (~~3-15-02~~)(12-1-03)T

a. A service plan must include the following, at a minimum: (3-15-02)

i. An issue statement specifically describing the participant's behavior that directly relates to his mental illness and functional impairment. (12-1-03)T

ii. A statement which identifies the recipient's participant's goal relative to the goals of PSR as per Section 450 and Subsection 4523.02 of these rules; (~~3-15-02~~)(12-1-03)T

iii. Overall goal(s) and concrete, measurable objectives to be achieved, including time frames for completion. At least one (1) objective is required for the focus areas which ~~will~~ must likely lead to the greatest stabilizing impact. At a minimum, this should include at least one (1) objective in each of the two (2) focus areas which qualify the recipient participant for PSR; (3-15-02)(12-1-03)T

iv. Tasks that are specific, time-limited activities and interventions designed to accomplish the objectives in the service plan and are developed by the participant and the selected provider(s). (12-1-03)T

~~iii.v.~~ Documentation of who participated in the development of the service plan; ~~The recipient participant, if possible, must be a participant take part in the development of the service plan.~~ The adult recipient participant or the adult recipient's participant's legal guardian must sign the service plan or documentation must be provided why this was not possible, including recipient participant refusal to sign. For a minor child recipient participant, the child's parent(s) or guardian(s) must sign the plan. A copy of the plan ~~shall~~ must be given to the adult recipient participant and ~~their~~ his guardian or to the parent(s) or guardian of the minor child; (3-15-02)(12-1-03)T

b. A service plan ~~shall~~ must be developed within thirty (30) calendar days from initial face-to-face contact between the Department or its designee and the consumer participant or in the case of a minor child, the child's parents or guardians. (3-15-02)(12-1-03)T

c. A service plan review by the Department or its designee and the ~~recipient shall~~ participant must occur at least annually. During the review, the Department or its designee and the recipient participant review any objectives which may be added to or deleted from the service plan. Input from other participants in the plan including provider(s) ~~will~~ must be considered. Who attends the review is a decision of the adult consumer participant and guardian or in the case of a child, his family or legal guardian(s), and the Department or its designee. ~~The Department or its designee's signature is necessary to approve any changes.~~ (3-15-02)(12-1-03)T

d. Each service plan ~~shall~~ must be reviewed and signed by a physician at least annually. Once the date of a plan is established, that date ~~shall~~ continues to be the annual date of the plan. ~~Failure of If the physician to does~~ not sign a subsequent plan on or before the date of the plan, ~~will result in expiration of the plan is expired~~ and a new plan ~~will be required~~ must be developed. The date of the physician's signature on subsequent plans ~~shall~~ must not be after the established annual date. This in no way precludes the Department or its designee from reformulating a completely new plan annually. (3-15-02)(12-1-03)T

e. ~~Each recipient must~~ The eligible participant will be allowed to choose ~~a~~ whether or not he desires to receive PSR services and who the provider(s) of services will be to assist them him in accomplishing the objectives stated in ~~their~~ his service plan. Documentation must be included in the participant's file showing that the participant has been informed of his rights to refuse services and choose providers. (3-15-02)(12-1-03)T

~~03. Task Plan. The task plan is developed by the recipient and the selected provider(s). It identifies specific, time-limited activities designed to accomplish the objectives of the service plan. The task plan must be completed within fourteen (14) working days from completion of the service plan. The task plan must be completed by a qualified provider in accordance with Section 455 of these rules. Each task shall specify the place of service, the frequency of services, the type of service, and the person(s) responsible to assist the recipient in the completion of tasks.~~ (3-15-02)

**043. Pharmacological Management.** Pharmacological management services ~~shall~~ must be provided in accordance with the service plan. Pharmacological management, alone, may be provided if the plan indicates that this service is necessary and sufficient to prevent relapse or hospitalization and that functional deficits are either manageable by the participant or absent but expected to return if pharmacological management is not provided. The telephoning of prescriptions to the pharmacy is not a billable service. Medication prescription must be done by a licensed physician or other practitioner of the healing arts within the scope of practice defined in their license in visual contact with the recipient participant. (3-15-02)(12-1-03)T

**054. Individual Psychosocial Rehabilitation.** Individual ~~Psychosocial Rehabilitation shall~~ must be provided in accordance with the objectives specified in the service plan. ~~The service plan goal is to aid recipients in work, school, or with other issues related to their mental illness, by obtaining skills to live independently or by preventing movement to a more restrictive living situation.~~ Individual PSR is a service provided to an individual

participant on a one-to-one basis. Individual ~~psychosocial rehabilitation~~ PSR is reimbursable if provided by an agency with a current provider agreement and the agency's providers meet the qualifications, in accordance with Section 4556 of these rules. Individual ~~Psychosocial Rehabilitation~~ PSR includes one (1) or more of the following:

(3-15-02)(12-1-03)T

a. Assistance in gaining and utilizing skills necessary to undertake school, employment, or independence. This includes helping the ~~recipient~~ participant learn personal hygiene and grooming, selecting and acquiring appropriate clothing, time management and other skills related to ~~recipient's~~ participant's psychosocial circumstances;

(3-15-02)(12-1-03)T

b. Ongoing on-site assessment, evaluation, and feedback sessions, including one hundred twenty (120) day reviews, to identify symptoms or behaviors related to the participant's mental illness and to develop interventions with the ~~recipient~~ participant and his employer or teacher;

(3-15-02)(12-1-03)T

c. Individual interventions in social skill training to improve communication skills and facilitate appropriate interpersonal behavior directly related to the ~~individuals~~ participant's mental illness;

(3-15-02)(12-1-03)T

d. Problem solving, support, and supervision related to activities of daily living to assist ~~recipients to participants in~~ gaining and utilizing skills such as personal hygiene, household tasks, use of transportation utilization, and money management;

(3-15-02)(12-1-03)T

e. ~~To a~~ Assisting ~~recipient~~ the participant with receiving necessary services when ~~they have~~ he has difficulty or ~~are~~ is unable to obtain them. This assistance may be given by accompanying ~~them~~ him to Medicaid-reimbursable appointments. For reimbursement purposes, ~~the~~ PSR provider must be present during the appointment and deliver a PSR service during the appointment. Travel time and time waiting to meet with the Medicaid provider are not reimbursable. To be eligible for this service, the participant must have a functional impairment that affects his ability to communicate accurately due to a mental illness and be unable to report symptoms to a licensed practitioner, as identified in Subsection 456.01, or understand the practitioner's instructions. The impairment must be identified in the assessment. The service plan must identify how the impairment is to be resolved and include objectives toward independence in this area. For children, this service is not intended to replace the parent's responsibility in advocating for or attending appointments for their child;

(3-15-02)(12-1-03)T

f. Medication education may be provided by a licensed physician, licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service focuses on educating the ~~recipient~~ participant about the role and effects of medications in treating symptoms of mental illness and symptom management.

(3-15-02)(12-1-03)T

g. Development of coping skills and symptom management to identify the symptoms of mental illness ~~which~~ that are barriers to successful community integration and crisis prevention.

(3-15-02)(12-1-03)T

h. May assist ~~recipient~~ participant with "self" administration of medications by verbal prompts according to the direction of the prescribing physician. Verbal prompts ~~will~~ must be delivered face-to-face and an assessment of the ~~consumer's~~ participant's functioning ~~will~~ must be completed and documented. In cases where verbal prompts by phone are justified, they must be specifically prior authorized.

(3-15-02)(12-1-03)T

**065. Group Psychosocial Rehabilitation (PSR).** Group ~~psychosocial rehabilitation shall~~ PSR must be provided in accordance with the objectives specified in the service plan. ~~This~~ Group PSR is a service provided to two (2) or more individuals, at least one (1) of whom is a ~~recipient~~ participant. ~~The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation.~~ Group ~~psychosocial rehabilitation~~ PSR is reimbursable if provided by an agency with a current provider agreement and the agency's provider meets the qualifications in accordance with Section 4556 of these rules. This service includes one (1) or more of the following:

(3-15-02)(12-1-03)T

a. Medication education groups provided by a licensed physician, licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service focuses on educating ~~recipients~~ participants about the role and effects of medications in treating symptoms of mental illness and symptom

management. These groups ~~shall~~ must not be used solely for the purpose of group prescription writing;  
(3-15-02)(12-1-03)T

b. Employment or school-related groups to focus on symptom management on the job or in school, symptom reduction, and education about appropriate job or school-related behaviors;  
(3-15-02)(12-1-03)T

c. Communication and interpersonal skills groups, the goals of which are to improve communication skills and facilitate appropriate interpersonal behavior. ~~The recipient must be present;~~  
(3-15-02)(12-1-03)T

d. Symptom management groups to identify mental illness symptoms which are barriers to successful community integration, crisis prevention, problem identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons; and  
(3-15-02)

e. Activities of daily living groups which help ~~recipients~~ participants learn skills related to personal hygiene, grooming, household tasks, use of transportation ~~utilization~~, socialization, and money management.  
(3-15-02)(12-1-03)T

**076. Community Crisis Support Intervention Service.** ~~Community~~ Crisis support ~~which that~~ includes intervention for ~~recipients~~ a participant in crisis situations to ensure ~~the~~ his health and safety or to prevent his hospitalization or incarceration ~~of a recipient. Community~~ Crisis support intervention service is reimbursable if provided by an agency with a current provider agreement and the agency's providers meet the qualifications of Section 4556 of these rules ~~and according to limitations contained in Subsection 458.03. of these rules.~~ (3-15-02)

~~a.~~ A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. PSR providers may provide direct services within the scope of these rules or link the participant to community resources to resolve the crisis or both.  
(7-1-94)

~~b.~~ ~~Community~~ Crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service and the services ~~are~~ is either authorized the next business day following the beginning of the crisis or prior authorized in anticipation of the need for crisis support. Crisis hours are authorized on a per incident basis.  
(3-15-02)(12-1-03)T

a. Crisis Support in a Community. Limitations to reimbursement in this place of service are described in Subsection 459.03 of these rules.  
(12-1-03)T

**08b. Crisis Intervention (ER) Crisis Support in an Emergency Department.** (12-1-03)T

i. A service provided in a hospital emergency ~~room~~ department as an adjunct to the medical evaluation completed by the emergency ~~room~~ department physician. This evaluation may include a psychiatric assessment.  
(12-1-03)T

ii. The goal of this service is to assist in the identification of the least restrictive setting appropriate to the needs of the ~~recipient~~ participant. ~~This service must be reported to, reviewed and authorized, when appropriate, by the Department or its designee on the next working day. Crisis Intervention (ER) is reimbursable if provided by an agency with a current provider agreement and the agency's providers meet the qualifications of Section 4545 of these rules.~~  
(3-15-02)(12-1-03)T

**097. Collateral Contact.** Contacts made with significant individuals in the ~~recipient's~~ participant's environment for the purpose of assisting the ~~recipient~~ participant to live in the community. Collaterals may include a parent, guardian, relatives, family members, landlords, employers, teachers, providers or other individuals with a primary relationship to the ~~recipient~~ participant. The purpose of collateral contacts is to gather and exchange information with individuals specifically identified in the service or task plan. Collateral contacts must be prior authorized. Collateral Contact is reimbursable if provided by an agency with a current provider agreement and the agency's providers meet the qualifications of ~~Subsection 453.06 and 456 of these rules.~~ Subsection 454.06 of these rules describes limitations on reimbursement for collateral contacts between providers. The types of collateral contact



are as follows:

~~(3-15-02)~~(12-1-03)T

- a. Collateral contact face-to-face. When two persons meet visually at the same time; (3-15-02)
- b. Collateral contact telephone. When it is the most expeditious and effective way to exchange information; and (3-15-02)
- c. Collateral contact parent group. When two (2) or more parents of children, under the age of eighteen (18), with similar serious emotional disturbances meet to share information and learn about their children's needs. (3-15-02)

**408. Nursing Service.** A service performed by licensed and qualified nursing personnel within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code. This may include supervision, monitoring, and administration of medications. (3-15-02)

**409. Psychotherapy.** Individual, group and family psychotherapy must be prior authorized and provided in accordance with the objectives specified in the written service plan. Qualified providers ~~for~~ and qualified supervisors of psychotherapy are identified in ~~Clinic Services Mental Health Clinics~~, Subsection 469.06 of these rules. Family psychotherapy must include the ~~recipient participant~~ and at least one (1) family member at any given time and must be delivered in accordance with objectives as specified in the written service plan. An agency ~~shall~~ must assure clinical supervision is available to all staff ~~who~~ that provide psychotherapy. The amount of supervision should be adequate to insure that the service plan objectives are achieved. ~~Clinical supervision of psychotherapy must be provided by individuals whose training, experience, and license qualify them to provide clinical supervision of psychotherapy. Supervision may be provided by individuals in Subsections 455.01 through 455.06 of these rules.~~ Documentation of supervision must be maintained by the agency and be available for review by the Department or its designee. ~~(3-15-02)~~(12-1-03)T

**120. Occupational Therapy.** Occupational therapy services must be prior authorized by the Department or its designee, based on the results of an occupational therapy evaluation completed by a licensed Occupational Therapist in accordance with Subsections ~~455.14~~ 456.02 and 4578.08 of these rules. ~~(3-15-02)~~(12-1-03)T

**4534. EXCLUDED SERVICES NOT REIMBURSABLE UNDER MEDICAID PSR.**

Excluded services are those services ~~which~~ that are not reimbursable under Medicaid PSR. The following is a list of those services: ~~(3-15-02)~~(12-1-03)T

**01. Inpatient.** Treatment services rendered to ~~recipients~~ participants residing in inpatient medical facilities including nursing homes, or hospitals, ~~or correctional facilities including jail and detention~~ except those identified in Subsection 458.09 of these rules; ~~(3-15-02)~~(12-1-03)T

**02. Recreational And Social Activities.** Activities which are primarily social or recreational in purpose; (3-15-02)

**03. Employment.** Job-specific interventions, job training and job placement services which includes helping the ~~recipient~~ participant develop a resume, applying for a job, and job training or coaching; ~~(3-15-02)~~(12-1-03)T

**04. Household Tasks.** Staff performance of household tasks and chores; (3-15-02)

**05. Treatment Of Other Individuals.** Treatment services for persons other than the identified ~~recipient~~ participant; ~~(3-15-02)~~(12-1-03)T

**06. Client Staffing Within An Agency.** A client staffing between two (2) staff who both provide PSR services within the same agency is not reimbursable. A client staffing may fall under the definition of collateral contact when it is prior authorized and occurs between two (2) staff who are providing services from different Medicaid programs either within or outside the same agency. ~~(3-15-02)~~(12-1-03)T

**07. Medication Drops.** Delivery of medication only; (3-15-02)

**08. Services Delivered On An Expired Service Plan.** Services provided between the expiration date of one (1) plan and the start date of the subsequent plan; and (3-15-02)

**09. Transportation.** The provision of transportation services and staff time to transport. (12-1-03)T

~~09~~**10. Services Not Listed.** Any other services not listed in Section 4523 of these rules. (~~3-15-02~~)(12-1-03)T

**4545. PSR PROVIDER AGENCY REQUIREMENTS.**

Each agency who enters a provider agreement with the Division of Medicaid for the provision of PSR services *shall* must meet the following requirements: (~~3-15-02~~)(12-1-03)T

**01. Agency.** A proprietorship, partnership, corporation, or other entity, employing at least two (2) providers and offering both PSR services and administrative services. Administrative services may include such activities as billing, hiring staff, assuring staff qualifications are met and maintained, setting policy and procedure, payroll. (3-15-02)

**02. Staff Qualifications.** An agency *shall* must assure that all agency staff meet the qualification in Section 4556 of these rules. The agency must verify that all employees, subcontractors, or agents coming into direct contact with participants have passed a Department criminal history check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". The agency must report criminal convictions of employees, subcontractors, or agents to the Department or its designee. (~~3-15-02~~)(12-1-03)T

**03. Supplemental Services Agreement.** An agency must have negotiated a Supplemental Services Agreement (SSA) with the Department or its designee. The SSA *shall* must specify what PSR services *shall* must be provided by the agency. An agency's Supplemental Services Agreement *shall* must be reviewed at least annually and may be revised or cancelled at any time. (~~3-15-02~~)(12-1-03)T

**04. Agency Employees And Subcontractors.** Employees and subcontractors of an agency *shall be* are subject to the same conditions, restrictions, qualifications and rules as the agency. (~~3-15-02~~)(12-1-03)T

**05. Supervision.** An agency *shall* must provide staff with adequate supervision to insure that the tasks on a ~~recipient's task~~ participant's service plan can be implemented effectively in order for the service plan objectives to be achieved. Case specific supervisory contact *shall* must be made weekly, at a minimum, with staff for whom supervision is a requirement. Individuals in Subsections ~~455.11~~ 456.09 through ~~455.14~~ 456.12 of these rules; must be supervised by individuals in Subsections 4556.01 through ~~455.10~~ 456.08. Documentation of supervision must be maintained by the agency and be available for review by the Department or its designee. (~~3-15-02~~)(12-1-03)T

**06. Continuing Education.** The agency *shall* must assure that all staff complete twenty (20) hours of continuing education annually from the date of hire. Four (4) hours every four (4) years must be in ethics training. Staff who are not licensed *shall* must select the discipline closest to their own and use the continuing education standards attached to that professional license. Nothing in these rules will affect professional licensing continuing education standards and requirements set by the Bureau of Occupational Licenses. (~~3-15-02~~)(12-1-03)T

**07. Crisis Service Availability.** PSR agencies must provide twenty-four (24) hour crisis response services for their participants or make contractual arrangement for the provision of those services. (12-1-03)T

**4556. PSR PROVIDER QUALIFICATIONS.**

All individuals providing PSR services must meet at least one (1) of the following qualifications: (~~3-15-02~~)(12-1-03)T

**01. Licensed Physician Or Psychiatrist.** A physician, psychiatrist, or other licensed practitioners of the healing arts within the scope of his practice under state law *shall* must be licensed in accordance with Title 54, Chapter 18, Idaho Code, to practice medicine. A licensed practitioner of the healing arts in Idaho may include Physician Assistants and Nurse Practitioners; (~~3-15-02~~)(12-1-03)T

**02. Licensed Master's Level Psychiatric Nurse.** A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, ~~shall~~ must be licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree;

~~(3-15-02)~~(12-1-03)T

**03. Licensed Psychologist.** A psychologist ~~shall~~ must be licensed in accordance with Title 54, Chapter 23, Idaho Code;

~~(3-30-01)~~(12-1-03)T

**04. Licensed Clinical Professional Counselor Or Licensed Professional Counselor.** A clinical professional counselor ~~shall~~ or professional counselor must be licensed in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists";

~~(3-15-02)~~(12-1-03)T

**05. Licensed Marriage And Family Therapist.** A marriage and family therapist ~~shall~~ must be licensed in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists";

~~(3-15-02)~~(12-1-03)T

**06. Licensed Masters Social Worker, Or Licensed Clinical Social Worker.** A masters social worker (LMSW) or clinical social worker (LCSW), ~~shall~~ must hold a license in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners";

~~(5-3-03)~~(12-1-03)T

~~**07. Psychologist Extender.** A psychologist extender shall work under the supervision of a licensed psychologist and be registered with the Bureau of Occupational Licenses. A copy of that registration shall be retained in the extender's personnel file;~~

~~(3-15-02)~~

~~**08. Professional Counselor.** A professional counselor shall be licensed in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists";~~

~~(3-15-02)~~

**097. Clinician.** A clinician ~~shall~~ must hold a master's degree, be employed by a state agency and meet the minimum standards established by the Idaho State Division of Human Resources and the Idaho Department of Health and Welfare Division of Human Resources;

~~(3-15-02)~~(12-1-03)T

**108. Licensed Pastoral Counselor.** A pastoral counselor ~~shall~~ must be licensed in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists". Training and experience in a mental health setting are required;

~~(3-15-02)~~(12-1-03)T

~~**109. Licensed Social Worker.** A social worker shall must hold a license in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners";~~

~~(3-30-01)~~(12-1-03)T

**120. Registered Licensed Professional Nurse (RN).** A ~~registered~~ licensed professional nurse; or R-N-, ~~shall~~ must be licensed in accordance with Title 54, Chapter 14, Idaho Code; ~~An R..N. shall have a minimum of a bachelor's degree in nursing to be reimbursed for service planning.~~

~~(3-15-02)~~(12-1-03)T

**131. Psychosocial Rehabilitation (PSR) Specialist.** A ~~psychosocial rehabilitation~~ PSR specialist ~~shall~~ must hold at least a bachelor's degree from a nationally accredited university or college in a behavioral science education, or medicine. A PSR specialist must have at least twenty-one (21) semester credit hours (or quarter hour equivalent) in human service fields such as psychology, social work, special education, counseling, and psychosocial rehabilitation. An individual who has been denied licensure, or who is qualified to apply for licensure to the State of Idaho, Bureau of Occupational Licenses in the professions identified in Subsections 456.01 through 456.10 of this rule, is not eligible to provide services under the designation of Psychosocial Rehabilitation Specialist. Individuals approved as PSR specialists under previous rules in this section will be able to continue as qualified PSR specialists as long as they continue to work in the same agency as they did prior to the effective date of this rule; or

~~(3-15-02)~~(12-1-03)T

**142. Licensed Occupational Therapist.** An occupational therapist ~~shall~~ must be licensed in accordance with Title 54, Chapter 37, Idaho Code, and IDAPA 22.01.09, "Rules for the Licensing of Occupational Therapists and Occupational Therapist Assistants". Training and experience in a mental health setting are required.

~~(3-15-02)~~(12-1-03)T

**13. Psychologist Extender.** A psychologist extender must work under the supervision of a licensed psychologist and be registered with the Bureau of Occupational Licenses. A copy of that registration must be retained in the extender's personnel file.

(12-1-03)T

**4567. RECORD REQUIREMENTS FOR PSR PROVIDERS.**

In addition to the development and maintenance of the ~~task~~ service plan, the following documentation must be maintained by the provider of PSR services:

~~(3-15-02)~~(12-1-03)T

**01. Name.** Name of ~~recipient~~ participant;

~~(3-15-02)~~(12-1-03)T

**02. Provider.** Name of the provider agency and person providing the service;

(3-15-02)

**03. Date, Time, Duration Of Service, And Justification.** Date, time, and duration of services. Documentation must justify the length of time which is billed;

(3-15-02)

**04. Documentation Of Progress.** The written description of the service provided, the place of service, and the response of the ~~recipient shall~~ participant must be included in the progress note. A separate progress note is required for each contact with a ~~recipient~~ participant;

~~(3-15-02)~~(12-1-03)T

**05. ~~Review Of Progress~~ One Hundred Twenty Day Review.** ~~A~~ Documented review of progress toward each service plan goal and objective must be kept in the participant's file and a copy sent to the Department or its designee within five (5) working days of the due date. Failure to do so may result in the loss of a prior authorization or result in a recoupment of reimbursement provided for services delivered after the one hundred twenty (120) day review due date. The review must also include a reassessment of ~~recipient's~~ the participant's continued need for services. The review must occur at least every one hundred twenty (120) days. ~~The one hundred twenty (120) day review shall~~ and be conducted in visual contact with the ~~recipient~~ participant. For children, the review must include a new CAFAS for the purpose of measuring functional impairment. After eligibility has been determined, subsequent CAFAS scores are used to measure progress and functional impairment and should not be used to terminate services;

~~(3-15-02)~~(12-1-03)T

**06. Service Provider's Signature.** The legible, dated signature, with degree credentials listed of the staff member performing the service; and

(3-15-02)

**07. Choice Of Provider.** Documentation of the participant's choice of provider must be maintained in the participant's file prior to the implementation of the service plan.

(12-1-03)T

**08. Closure Of Services.** A discharge summary must be included in the participant's record and submitted to the Department or its designee identifying the date of closure, reason for ending services, progress on objectives, and referrals to supports and other services.

(12-1-03)T

**09. Payment Limitations.** Reimbursement is not allowed for missed appointments, attempted contacts, travel to provide the service, leaving messages, scheduling appointments with the Medicaid service coordinator, transporting participants, or documenting services. For services paid at the fifteen (15) minute incremental rate, providers will not be reimbursed for more than one (1) contact during a single fifteen (15) minute time period.

(12-1-03)T

**4578. PAYMENT FOR PSR SERVICES.**

Payment for PSR services must be in accordance with rates established by the Department. The rate paid for services includes documentation.

~~(3-30-01)~~(12-1-03)T

**01. Duplication.** Payment for services ~~shall~~ must not duplicate payment made to public or private entities under other program authorities for the same purpose.

~~(3-30-01)~~(12-1-03)T

**02. Number Of Staff Able To Bill.** Only one (1) staff member may bill for an assessment, service plan, or case review when multiple PSR staff are present. (3-15-02)

**03. Medication Prescription And Administration.** Medication prescription and administration may be billed only by physicians and other medical staff qualified under Title 54, Chapter 18 Idaho Code. (3-15-02)

**04. Recoupment.** Billing for services and receiving reimbursement for services that were not rendered or failure to comply with these rules ~~shall~~ must be cause for recoupment of payments for services, sanctions, or both. ~~(3-30-01)~~(12-1-03)T

**05. Access To Information.** Upon request, the provider ~~shall~~ must provide the Department with access to all information required to review compliance with these rules. Failure by the provider to comply with such a request ~~shall~~ must result in termination of the Medicaid PSR Provider Agreement. ~~(3-15-02)~~(12-1-03)T

**06. Evaluations And Tests.** Evaluations and tests may be provided as a reimbursable service in conjunction with the assessment. (3-15-02)

**067. Psychological Evaluations.** Psychological evaluations are reimbursable if provided by a licensed psychologist, or by qualified clinician or psychologist extender in accordance with Section 4556 of these rules and under the direction of a licensed psychologist. ~~(3-15-02)~~(12-1-03)T

**08. Evaluations By Occupational Therapists.** Evaluations performed by qualified licensed occupational therapists, performed in conjunction with development of a service plan are reimbursable. (3-15-02)

**09. Psychiatric Or Medical Inpatient Stays.** Services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those included in the responsibilities of the inpatient facility. Treatment services are the responsibility of the facility. ~~(3-15-02)~~(12-1-03)T

**4589. PSR SERVICE LIMITATIONS.**

The following service limitations ~~shall~~ apply to PSR services, unless otherwise authorized by the Department or its designee in each region. ~~(3-15-02)~~(12-1-03)T

**01. ~~Evaluation Or Diagnosis~~ Assessment And Service Plan Development.** Any combination of ~~any~~ evaluations or diagnostic services ~~are~~ is limited to a maximum of six (6) hours annually. Additional hours may be approved by the Department or its designee under the following situations: ~~(3-30-01)~~(12-1-03)T

**a.** When the participant selects more than one (1) provider. (12-1-03)T

**b.** When service plan development is being done by an agency that did not do the assessment. (12-1-03)T

**02. Psychotherapy.** Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. (3-30-01)

**03. ~~Community Crisis Support~~ Intervention Service.** A maximum of twenty (20) hours of ~~community~~ crisis support in a community may be reimbursed per crisis during any consecutive five (5) day period. Authorization must follow procedure described above at Subsection ~~452-07~~ 453.06 of these rules. ~~(3-15-02)~~(12-1-03)T

**04. Psychosocial Rehabilitation.** Individual and group ~~psychosocial rehabilitation~~ PSR services are not to exceed twenty (20) hours per week and must receive prior authorization from the Department or its designee. Services in excess of twenty (20) hours require additional review and prior authorization by the Department or its designee in each region. The prior authorization of additional hours must be documented in the service plan and written approval must be retained in the ~~recipient's~~ participant's file. ~~(3-15-02)~~(12-1-03)T

~~459. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

461. -- 4643. (RESERVED).

**4654. CLINIC SERVICES -- MENTAL HEALTH CLINICS (MHC).**

Pursuant to Under 42 CFR 440.90, the Department will pay for preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided by a mental health clinic to a recipient participant who is not an inpatient in a hospital or nursing home or correctional facility except as specified under Subsection 469.05.a. The mental health clinic must be approved by the Department and be under the direction of a licensed physician. (3-30-01)(12-1-03)T

**465. MENTAL HEALTH CLINIC PROVIDER AGENCY REQUIREMENTS.**

**01. Mental Health Clinic.** A mental health clinic, also referred to as agency, must be a proprietorship, partnership, corporation, or other entity, in a distinct location, employing at least two (2) providers and operating under the direction of a physician. The Department must approve the enrollment of the agency as a Medicaid provider. (12-1-03)T

**02. Physician Requirement.** Each participant's care must be under the supervision of a physician directly affiliated with the clinic. In order to fulfill the requirement for the clinic being under the direction of a physician, the physician must see the program participant at least once, prescribe the type of care provided, and, if the services are not limited by the prescription, periodically review the need for continued care. (12-1-03)T

**03. Staff Qualifications.** A mental health clinic must assure that all agency staff delivering clinical services meet the qualifications as listed in Subsection 466.03 of these rules. The clinic must verify that all employees, subcontractors, or agents coming into direct contact with participants have complied with IDAPA 16.05.06 "Rules Governing Mandatory Criminal History Checks". The clinic must report criminal convictions of employees, subcontractors, or agents to the Department or its designee. (12-1-03)T

**04. Paraprofessionals.** For the purposes of this rule, a paraprofessional is any person who does not meet the qualifications of professionals as listed in Subsection 466.03 of these rules. A Mental Health Clinic provider may elect to employ paraprofessionals to provide support services to participants. Such support services may include providing transportation, cooking and serving meals, cleaning and maintaining the physical plant, or providing general, non-professional supervision. Paraprofessionals must not be employed in any capacity to deliver or assist in the delivery of partial care services or any other services in the clinic that are reimbursable by Medicaid. (12-1-03)T

**05. Agency Employees And Subcontractors.** Employees and subcontractors of an agency are subject to the same conditions, restrictions, qualifications and rules as the agency. (12-1-03)T

**06. Supervision.** An agency must ensure that staff providing clinical services are supervised according to the following guidelines: (12-1-03)T

**a.** Standards and requirements for supervision set by the Bureau of Occupational Licenses are met; (12-1-03)T

**b.** Case-specific supervisory contact must be made weekly, at a minimum, with staff for whom supervision is a requirement; and (12-1-03)T

**c.** Documentation of supervision must be maintained by the agency and be available for review by the Department or its designee. (12-1-03)T

**07. Continuing Education.** The agency must ensure that all staff complete twenty (20) hours of continuing education annually in the field in which they are licensed. Documentation of the continuing education hours must be maintained by the agency and be available for review by the Department or its designee. Nothing in

these rules will affect professional licensing continuing education standards and requirements set by the Bureau of Occupational Licenses. (12-1-03)T

**466. CARE AND SERVICES PROVIDED IN MENTAL HEALTH CLINICS.**

**01. ~~Treatment Plan-Of-Care.~~** Services in mental health clinics must be provided specifically in conjunction with a medically ordered plan of care, referred to as the treatment plan, signed by a physician when and delivered by licensed, qualified professionals employed full or part-time within a clinic. All treatment plans must: (~~3-30-01~~)(12-1-03)T

**a.** Be dated and fully signed with title identification by both the prime therapist(s) and licensed physician; (12-1-03)T

**b.** Contain the diagnosis documented by an examination and by a licensed physician or other licensed practitioner of the healing arts within the scope of his practice under state law; including signature, problem list, type, frequency, and duration of treatment; (12-1-03)T

**c.** Be reviewed and authorized and signed within thirty (30) days of implementation; and (12-1-03)T

**d.** Be reviewed within one hundred twenty (120) days and every one hundred twenty (120) days thereafter; (12-1-03)T

**e.** Be completely rewritten and authorized annually. Authorization for services after the first year must be based on documentation that the participant has specifically benefited from services but continues to need additional services. The participant's progress toward the service no longer being necessary must also be documented. (12-1-03)T

**02. Assessment.** All treatment in mental health clinics must be based on an individualized assessment of the patient's needs, including a current mental status examination, and provided under the direction of a licensed physician. (~~3-30-01~~)(12-1-03)T

~~**03. Care Plans.** All medical care plans must:~~ (~~3-30-01~~)

~~**a.** Be dated and fully signed with title identification by both the prime therapist(s) and licensed physician; and~~ (~~11-10-81~~)

~~**b.** Contain the diagnosis documented by an examination and by a licensed physician or other licensed practitioner of the healing arts within the scope of his practice under state law; including signature, problem list, type, frequency, and duration of treatment; and~~ (~~3-30-01~~)

~~**c.** Be reviewed and authorized and signed within thirty (30) days of implementation; and~~ (~~11-10-81~~)

~~**d.** Be reviewed within one hundred twenty (120) days and every one hundred twenty (120) days thereafter; and~~ (~~11-10-81~~)

~~**e.** Be completely rewritten and authorized annually.~~ (~~11-10-81~~)

**043. Provider Qualifications.** Licensed, qualified professionals providing mental health clinic services to eligible MA ~~recipients~~ participants must have, at a minimum, one (1) or more of the following qualifications: (~~3-30-01~~)(12-1-03)T

**a.** Licensed Psychiatrist, M.D.; or (~~11-10-81~~)(12-1-03)T

**b.** Licensed Physician, M.D.; or (~~11-10-81~~)(12-1-03)T

**c.** Licensed Psychologist; or (7-1-99)

- d. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)
- e. Licensed Masters Social Workers, ~~or~~ Licensed Clinical Social Workers, or Licensed Social Worker; (5-3-03)(12-1-03)T
- f. Licensed Clinical Professional Counselor or Licensed Professional Counselor; or (3-15-02)(12-1-03)T
- g. Licensed Marriage and Family Therapist; or (3-15-02)
- h. Certified Psychiatric Nurse, R.N., as described in Subsection 45~~46~~.02 of these rules; or (3-15-02)(12-1-03)T
- ~~i. Licensed Social Workers; or (4-5-00)~~
- ji. Licensed Registered Nurse, R.N.; or (4-5-00)
- kj. Registered Occupational Therapist, O.T.R. (7-1-99)

**467. CARE AND SERVICES IN MENTAL HEALTH CLINICS NOT ~~COVERED~~ REIMBURSED.**

**01. Inpatient Medical Facilities.** The MA Program will not pay for mental health clinic services rendered to MA recipients residing in in-patient medical facilities including, but not limited to, nursing homes, hospitals, or correctional facilities; or (3-30-01)(12-1-03)T

**02. Scope.** Any service or supplies not included as part of the allowable scope of the MA Program; or (3-30-01)

**03. Non-Qualified Persons.** Services provided within the mental health clinic framework by persons other than those qualified to render services as specified in Subsection 46~~56~~.03 of these rules. (3-30-01)(12-1-03)T

**468. EVALUATION AND DIAGNOSTIC SERVICES IN MENTAL HEALTH CLINICS.**

**01. Medical Psychosocial Histories.** Medical psychosocial intake histories must be contained in all case files. (3-30-01)

**02. Diagnosis And Treatment Plan.** Information gathered will be used for establishing a recipient participant data base used in part to formulate the diagnosis and treatment plan. (3-30-01)(12-1-03)T

**03. Qualified Therapist.** The medical psychosocial intake and plan development is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following qualifications: (3-30-01)

- a. Licensed Psychologist; or (7-1-99)
- b. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)
- c. Licensed Masters Social Worker, or Licensed Clinical Social Worker, or Licensed Social Worker; (5-3-03)(12-1-03)T
- d. Certified Psychiatric Nurse, R.N.; or (7-1-99)
- e. Licensed Clinical Professional Counselor or Licensed Professional Counselor; or (5-3-03)(12-1-03)T
- f. Licensed Physician, ~~M.D.~~, or Licensed Psychiatrist, ~~M.D.~~; or (7-1-99)(12-1-03)T
- ~~g. Licensed Social Worker (not to include plan development, unless employed by the clinic prior to~~



~~February 27, 1998); or~~

~~(3-30-01)~~

~~h.g.~~ Licensed Marriage and Family Therapist; or

(3-15-02)

~~h.h.~~ ~~Registered Nurse (not to include plan development, unless employed by the clinic prior to February 27, 1998)~~ Licensed Professional Nurse (RN).

~~(3-30-01)~~(12-1-03)T

**04. Intake Assessment.** If an individual who is not eligible for MA receives intake services from any staff not having the required degree(s) as provided in Subsection 468.03 of these rules, and later becomes eligible for MA, a new intake assessment and treatment plan will be required which must be developed by a qualified staff person and authorized prior to any reimbursement. (3-15-02)

**05. Non-Qualified Providers.** Any provider of evaluation, diagnostic service, or treatment designed by any person other than a person designated as qualified by these rules, is not eligible for reimbursement under the MA Program. (3-30-01)

**06. ~~Psychiatric Or~~ Psychological Testing.** ~~Psychiatric or p~~Psychological testing may be provided in conjunction with the medical psychosocial intake history as a reimbursable service when provided by those persons with qualifications listed in Subsections 469.06.a. through 469.06.~~dc.~~ and 469.06.j.

~~(3-30-01)~~(12-1-03)T

**07. Psychiatric Evaluation.** Psychiatric evaluation may be provided in conjunction with the medical psychosocial intake history as a reimbursable service when provided by those persons with qualifications listed in Subsections 469.06.a. and 469.06.b.

(12-1-03)T

**078. Evaluations Performed By Occupational Therapists.** Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with the development of a ~~medical-care~~ treatment plan are reimbursable.

~~(3-30-01)~~(12-1-03)T

**089. Documentation.** All intake histories, psychiatric evaluations, psychological testing, or specialty evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the ~~recipient's~~ participant's file for documentation purposes.

~~(3-30-01)~~(12-1-03)T

**0910. Data.** All data gathered must be directed towards formulation of a written diagnosis, problem list, and treatment plan which specifies the type, frequency, and anticipated duration of treatment. (3-30-01)

**101. Limitations.** A total of twelve (12) hours is the maximum time allowed for a combination of any evaluative or diagnostic services and ~~care~~ treatment plan development provided to an eligible ~~recipient~~ participant in a calendar year.

~~(3-30-01)~~(12-1-03)T

#### **469. TREATMENT SERVICES IN MENTAL HEALTH CLINICS.**

**01. Psychotherapy.** Individual and group psychotherapy must be provided in accordance with the goals specified in the ~~written-medical~~ treatment plan.

~~(3-30-01)~~(12-1-03)T

**02. Family Centered Services.** Family-centered psychosocial services must include at least two (2) family members and must be delivered in accordance with the goals of treatment as specified in the ~~medical~~ treatment plan.

~~(3-30-01)~~(12-1-03)T

**03. Emergency Services.** Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. (3-30-01)

**a.** Emergency services provided to an eligible ~~recipient~~ participant prior to intake and evaluation is a reimbursable service but must be fully documented in the ~~recipient's~~ participant's record; and

~~(11-10-81)~~(12-1-03)T

**b.** Each emergency service will be counted as a unit of service and part of the allowable limit per ~~recipient~~ participant unless the contact results in hospitalization.

~~(11-10-81)~~(12-1-03)T

**04. Collateral/Contact Consultation.** Collateral contact may be provided if face to face, and included on ~~care~~ the treatment plan and is necessary to gather information from an individual having a primary relationship to the ~~client~~ participant. ~~(3-30-01)~~(12-1-03)T

**05. Nursing Facility.** Psychotherapy services may be provided to ~~recipients~~ participants residing in a nursing facility if the following criteria are met: ~~(3-30-01)~~(12-1-03)T

a. The ~~recipient~~ participant has been identified through the PASARR Level II screening process as requiring psychotherapy as a specialized service; and ~~(11-29-91)~~(12-1-03)T

b. The service is provided outside the nursing facility at a clinic location; and (3-30-01)

c. Services provided are: (11-29-91)

i. Supported by the independent evaluations completed and approved by the ~~Mental Health Authority~~ Department or its designee; and ~~(11-29-91)~~(12-1-03)T

ii. Incorporated into the ~~recipient's~~ participant's medical care plan; and ~~(11-29-91)~~(12-1-03)T

iii. Directed toward the achievement of specific measurable objectives which include target dates for completion. (11-29-91)

**06. Provider Qualifications.** Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 469.01 through 469.04~~3~~ of these rules must have, at a minimum, one (1) or more of the following degrees: ~~(3-15-02)~~(12-1-03)T

a. Licensed Psychiatrist, ~~M.D.~~; or ~~(11-10-81)~~(12-1-03)T

b. Licensed Physician, ~~M.D.~~; or ~~(11-10-81)~~(12-1-03)T

c. Licensed Psychologist; or (7-1-99)

d. ~~Psychologist extender, registered with the Bureau of Occupational Licenses~~ Licensed Clinical Social Worker; or ~~(7-1-99)~~(12-1-03)T

e. ~~Licensed Masters Social Worker or~~ Licensed Clinical ~~Social Worker~~ Professional Counselor; or ~~(5-3-03)~~(12-1-03)T

f. Licensed ~~Clinical Professional Counselor~~ Marriage and Family Therapist; or ~~(5-3-03)~~(12-1-03)T

g. ~~Licensed Marriage and Family Therapist~~ Certified Psychiatric Nurse (RN), as described in Subsection 455.02 of these rules; or ~~(3-15-02)~~(12-1-03)T

h. ~~A licensed social worker who was employed by the clinic prior to February 27, 1998~~ Licensed Professional Counselor whose provision of psychotherapy is supervised by persons qualified under Subsections 469.06.a. through 469.06.g. of this rule; or ~~(7-1-99)~~(12-1-03)T

i. ~~Certified Psychiatric Nurse, R.N. as described in Subsection 454.02 of these rules~~ Licensed Masters Social Worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; or ~~(3-15-02)~~(12-1-03)T

j. A Registered Nurse, R.N., who was employed by the clinic prior to February 27, 1998 Psychologist Extender, registered with the Bureau of Occupational Licenses. ~~(7-1-99)~~(12-1-03)T

**07. Psychotherapy Limitations.** Psychotherapy services as set forth in Subsections 469.01 through 469.03 of these rules are limited to forty-five (45) hours per calendar year. (3-15-02)

**08. Chemotherapy.** Chemotherapy consultations must be provided by a physician or other practitioner of the healing arts within the scope of practice defined in their license in direct contact with the ~~recipient~~ participant. ~~(3-15-02)~~(12-1-03)T

**a.** Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the treatment plan; and (11-10-81)

**b.** Chemotherapy treatment can be part of the ~~medical-care~~ treatment plan and frequency and duration of the treatment must be specified. ~~(11-10-81)~~(12-1-03)T

**09. Nursing Services.** Nursing services, when physician ordered and supervised, can be part of the ~~recipient's medical-care~~ participant's treatment plan. ~~(3-30-01)~~(12-1-03)T

**a.** Licensed and qualified nursing personnel can supervise, monitor, and/or administer medication within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code; and (11-10-81)

**b.** Such treatment can be part of the ~~recipient's medical-care~~ participant's treatment plan, ~~and~~ ~~frequency and duration of the treatment must be specified.~~ ~~(11-10-81)~~(12-1-03)T

**10. Partial Care.** ~~Partial eCare services will be a structured program and will be directed toward the maintenance of socio-emotional levels, reduction of psychosocial dysfunctioning, and the promotion of psychosocial levels of functioning insuring the optimal level of function and independence. is intensive treatment for those whose functioning is sufficiently disrupted so as to seriously interfere with their productive involvement in daily living. Partial Care services are a structured program of therapeutic interventions that assist program participants in the stabilization of their behavior and conduct through the application of principles of behavior modification for behavior change and structured, goal-oriented group socialization for skill acquisition. The goal of Partial Care services is to decrease the severity and acuity of presenting symptoms so that the program participant may be maintained in home and school settings and to increase the program participants' interpersonal skills in order to obtain the optimal level of interpersonal adjustment.~~ ~~(3-30-01)~~(12-1-03)T

**a.** ~~To qualify as a~~ Qualifications of Partial Care Services, it must include an individual treatment plan based on concrete measurable goals and outcomes. The service must be offered a minimum of three (3) continuous hours daily, four (4) days per week; and In order to be considered a Partial Care service, the service must: ~~(3-30-01)~~(12-1-03)T

**i.** Be provided in a structured environment within the MHC setting; (12-1-03)T

**ii.** Be a needed service as indicated on the treatment plan with documented, concrete, and measurable goals and outcomes; and (12-1-03)T

**iii.** Provide interventions for relieving symptoms and acquiring specific skills. Every intervention must have a therapeutic intent as identified on the treatment plan. No other interventions are sanctioned nor are they reimbursable. (12-1-03)T

**b.** Limit on Treatment Hours. Treatment will be limited to fifty-six (56) hours per week per eligible ~~recipient; and~~ participant. ~~(7-8-90)~~(12-1-03)T

**c.** Criteria for Partial Care Service Program Participants. In order for a MHC program participant to be eligible for Partial Care Services the following criteria must be met and documented: (12-1-03)T

**i.** Assessments completed within the previous twelve (12) months have documented that the participant has any combination of emotional, behavioral, neurobiological or substance abuse problems that significantly impair social and occupational functioning. The intake assessment must document that the participant is presently at risk for an out-of-home placement, further clinical deterioration that would lead to an out-of-home placement, or further clinical deterioration which would interfere with the participant's ability to maintain current level of functioning. (12-1-03)T

ii. Other less intensive services have failed or are not appropriate for the clinical needs of the participant. For purposes of this rule, intensive services are interventions designed to be provided in an on-going or iterative process. (12-1-03)T

iii. For each participant, the services can reasonably be expected to improve the participant's condition or prevent further regression so that the current level of care is no longer necessary. (12-1-03)T

~~ed.~~ Partial care services offered on an extension basis less than this standard are allowable when such services are directly affiliated with a partial care service that meets this standard; and is not appropriate for certain people. Persons identified in the list below are disqualified from participating in Partial Care services: (11-10-81)(12-1-03)T

i. Persons at immediate risk of self-harm or harm to others; (12-1-03)T

ii. Persons needing more restrictive care or inpatient care; and (12-1-03)T

iii. Persons who have not fulfilled the requirements of Subsection 469.10.c. of this rule. (12-1-03)T

~~de.~~ Partial Care Services Must Be on the Treatment Plan. Partial care services will must be part of the recipient's medical care participant's treatment plan which must specify the amount, frequency, and expected duration of treatment; and. (11-10-81)(12-1-03)T

~~ef.~~ Provider Qualifications for Partial Care Services. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the qualifications listed in Subsection 466.043 of these rules. (3-15-02)(12-1-03)T

~~g.~~ Excluded Services. Services that focus on socialization, vocation, recreation or education are not reimbursable under Medicaid Partial Care. (12-1-03)T

#### 470. **RECORD KEEPING REQUIREMENTS FOR MENTAL HEALTH CLINICS.**

01. **Maintenance.** Each mental health clinic will be required to maintain records on all services provided to MA ~~recipients~~ participants. (3-30-01)(12-1-03)T

02. **Record Contents.** The records must contain a current treatment plan ordered by a physician and must meet the requirements as set forth in Subsection 466.031. (3-30-01)(12-1-03)T

03. **Requirements.** The records must: (3-30-01)

a. Specify the exact type of treatment provided; and (11-10-81)

b. Who the treatment was provided by; and (11-10-81)

c. Specify the duration of the treatment; and (11-10-81)

~~d.~~ Contain detailed records which outline exactly what occurred during the therapy session or recipient participant contact documented by the person who delivered the service; and (11-10-81)(12-1-03)T

~~e.~~ Contain the legible, dated signature, with degree credentials listed, of the staff member performing the service. (11-10-81)

04. **Non-Reimbursable.** Any service not adequately documented in the recipient's participant's record by the signature of the therapist providing the therapy or recipient participant contact, the length of the therapy session, and the date of the contact, will not be reimbursed by the Department. (3-30-01)(12-1-03)T

05. **Non-Eligible Providers.** Any treatment or contact provided as a result of a treatment plan performed by any staff other than as set forth herein will not be eligible for reimbursement by the Department.

(3-30-01)

**06. Recoupment.** If a record is determined not to meet minimum requirements as set forth herein any payments made on behalf of the ~~recipient~~ participant are subject to recoupment. ~~(3-30-01)~~(12-1-03)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**472. BUILDING STANDARDS FOR MENTAL HEALTH CLINICS.**

**01. Accessibility.** Mental health clinic service providers must be responsive to the needs of the service area and persons receiving services and accessible to persons with disabilities as defined in Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and the uniform federal accessibility standard. (12-1-03)T

**02. Environment.** Clinics must be designed and equipped to meet the needs of each participant including, but not limited to, factors such as sufficient space, equipment, lighting and noise control. (12-1-03)T

**03. Capacity.** Clinics must provide qualified staff as listed in Subsection 466.03 of these rules to meet a staff to participant ratio that ensures safe, effective and clinically appropriate interventions. (12-1-03)T

**04. Fire And Safety Standards.** (12-1-03)T

**a.** Clinic facilities must meet all local and state codes concerning fire and life safety. The owner/operator must have the facility inspected at least annually by the local fire authority. In the absence of a local fire authority, such inspections must be obtained from the Idaho State Fire Marshall's office. A copy of the inspection must be made available upon request and must include documentation of any necessary corrective action taken on violations cited; and (12-1-03)T

**b.** The clinic facility must be structurally sound and must be maintained and equipped to assure the safety of participants, employees and the public; and (12-1-03)T

**c.** In clinic facilities where natural or man-made hazards are present, suitable fences, guards or railings must be provided to protect participants; and (12-1-03)T

**d.** Clinic facilities must be kept free from the accumulation of weeds, trash and rubbish; and (12-1-03)T

**e.** Portable heating devices are prohibited except units that have heating elements that are limited to not more than two hundred twelve (212F) degrees Fahrenheit. The use of unvented, fuel-fired heating devices of any kind are prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority; and (12-1-03)T

**f.** Flammable or combustible materials must not be stored in the clinic facility; and (12-1-03)T

**g.** All hazardous or toxic substances must be properly labeled and stored under lock and key; and (12-1-03)T

**h.** Water temperatures in areas accessed by participants must not exceed one hundred twenty (120) degrees Fahrenheit; and (12-1-03)T

**i.** Portable fire extinguishers must be installed throughout the clinic facility. Numbers, types and location must be directed by the applicable fire authority noted in Subsection 472.04 of these rules; and (12-1-03)T

**j.** Electrical installations and equipment must comply with all applicable local or state electrical requirements. In addition, equipment designed to be grounded must be maintained in a grounded condition and

extension cords and multiple electrical outlet adapters must not be utilized unless U.L. approved and the numbers, location, and use of them are approved, in writing, by the local fire or building authority. (12-1-03)T

**k.** There must be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers must be posted near the telephone or where they can be easily accessed; and (12-1-03)T

**l.** Furnishings, decorations or other objects must not obstruct exits or access to exits. (12-1-03)T

**05. Emergency Plans And Training Requirements.** (12-1-03)T

**a.** Evacuation plans must be posted throughout the facility. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. (12-1-03)T

**b.** There must be written policies and procedures covering the protection of all persons in the event of fire or other emergencies; and (12-1-03)T

**c.** All employees must participate in fire and safety training upon employment and at least annually thereafter; and (12-1-03)T

**d.** All employees and partial care participants must engage in quarterly fire drills. At least two (2) of these fire drills must include evacuation of the building; and (12-1-03)T

**e.** A brief summary of the fire drill and the response of the response of the employees and partial care participants must be written and maintained on file. The summary must indicate the date and time the drill occurred, problems encountered and corrective action taken. (12-1-03)T

**06. Food Preparation And Storage.** (12-1-03)T

**a.** If foods are prepared in the clinic facility, they must be stored in such a manner as to prevent contamination and be prepared by sanitary methods. (12-1-03)T

**b.** Except during actual preparation time, cold perishable foods must be stored and served under forty-five (45F) degrees Fahrenheit and hot perishable foods must be stored and served over one hundred forty (140F) degrees Fahrenheit. (12-1-03)T

**c.** Refrigerators and freezers used to store participant lunches and other perishable foods used by participants, must be equipped with a reliable, easily-readable thermometer. Refrigerators must be maintained at forty-five (45F) degrees Fahrenheit or below. Freezers must be maintained at zero (0F) to ten (10F) degrees Fahrenheit or below. (12-1-03)T

**d.** When meals are prepared or provided for by the clinic, meals must be nutritional. (12-1-03)T

**07. Housekeeping And Maintenance Services.** (12-1-03)T

**a.** The interior and exterior of the clinic facility must be maintained in a clean, safe and orderly manner and must be kept in good repair; and (12-1-03)T

**b.** Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; and (12-1-03)T

**c.** All housekeeping equipment must be in good repair and maintained in a clean, safe and sanitary manner; and (12-1-03)T

**d.** The clinic facility must be maintained free from infestations of insects, rodents and other pests; and (12-1-03)T

e.     The clinic facility must maintain the temperature and humidity within a normal comfort range by heating, air conditioning, or other means. (12-1-03)T

f.     Garbage will be disposed of in a sanitary manner. It must not be allowed to accumulate and must be placed in leak-proof bags. (12-1-03)T

**08.**    **Firearms.** No firearms are permitted in the clinic facility. (12-1-03)T

**09.**    **Plumbing.** Restroom facilities must be maintained in good working order and available and accessible to participants while at the clinic in accordance with the Americans with Disabilities Act. This includes the presence of running water for operation of the toilet and washing hands. (12-1-03)T

**10.**    **Lighting.** Lighting levels must be maintained throughout the clinic facility which are appropriate to the service being provided. (12-1-03)T

**11.**    **Drinking Water.** Where the source is other than a public water system or commercially bottled, water quality must be tested and approved annually by the district health department. (12-1-03)T

~~4723.~~ -- 475.    **(RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.20 - RULES GOVERNING ELECTRONIC PAYMENTS OF PUBLIC**  
**ASSISTANCE, FOOD STAMPS, AND CHILD SUPPORT**

**DOCKET NO. 16-0320-0301**

**NOTICE OF RULEMAKING - PENDING RULE**

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

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

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 6, 2003, Administrative Bulletin, Volume 03-8, pages 98 and 99.

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

DATED this 30th day of September, 2003.

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

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**IDAPA 16, TITLE 03, CHAPTER 20**

**RULES GOVERNING ELECTRONIC PAYMENTS OF PUBLIC**  
**ASSISTANCE, FOOD STAMPS, AND CHILD SUPPORT**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative**  
**Bulletin, Volume 03-8, August 6, 2003, pages 98 and 99.**

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



## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.15 - FINGERPRINTING OF AGENTS, SOLICITORS AND BROKERS**

**DOCKET NO. 18-0115-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rule has been adopted to allow, but not require, the Director to perform a fingerprint background check on applicants for a producer license. It provides the Director flexibility to meet requirements for reciprocity with other states for nonresident producer licensing and eliminates language that required fingerprint background checks on all producer license applicants.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-8, August 6, 2003, pages 109 and 110.

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

Dated this 30th day of September, 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

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### **IDAPA 18, TITLE 01, CHAPTER 15**

#### **FINGERPRINTING OF AGENTS, SOLICITORS AND BROKERS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 109 and 110.**

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

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.19 - INSURANCE RATES AND CREDIT RATING**  
**DOCKET NO. 18-0119-0201**  
**NOTICE OF RULEMAKING - PENDING RULE**

**EDITOR'S CORRECTION:** This docket was published with an incorrect docket number (Doc # 18-0119-0301) as a proposed rule in the Idaho Administrative Bulletin, Vol. No. 03-9, September 3, 2003. The docket number should have been 18-0119-0201. The docket originally published in the Administrative Bulletin as a Negotiated Rulemaking in the June 5, 2002, Vol. 02-6 and also as a Temporary Rule in the January 1, 2003, Vol. 03-1.

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1843, Idaho Code.

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

This rule will implement Section 41-1843, Idaho Code, relating to the use of credit rating or credit history by insurers in determining rating and coverage of insurance, which became effective January 1, 2003.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-9, September 3, 2003, page 189 through 192.

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

Dated this 30th day of September, 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

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**IDAPA 18, TITLE 01, CHAPTER 19**

**INSURANCE RATES AND CREDIT RATING**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 189 through 192.**

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

## IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

### 18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-0301

#### NOTICE OF RULEMAKING - PENDING FEE RULE

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-401, Idaho Code.

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

The pending rule will encourage the electronic renewal of producer licenses by reducing the licensing fees, if renewed electronically, from eighty dollars (\$80) to sixty dollars (\$60).

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-7, July 2, 2003, pages 47 and 48.

**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).

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

Dated this 30th day of September, 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

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#### IDAPA 18, TITLE 01, CHAPTER 44

#### SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 47 and 48.**

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

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.53 - RULES GOVERNING CONTINUING EDUCATION**  
**DOCKET NO. 18-0153-0301**  
**NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

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

The pending rule is being adopted to meet national uniformity standards set forth by the NAIC by changing the continuing education requirement for resident licensed insurance producers.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-9, September 3, 2003, page 193 through 195.

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

Dated this 30th day of September, 2003.

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

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**IDAPA 18, TITLE 01, CHAPTER 53**

**RULES GOVERNING CONTINUING EDUCATION**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 193 through 195.**

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

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.59 - RULE TO IMPLEMENT THE RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS**

**DOCKET NO. 18-0159-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 41-612 and 41-1927, Idaho Code.

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

This pending rule is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with Sections 41-612(4)(a)(iii) and 41-1927(9)(d)(viii)(B)(6), Idaho Code, IDAPA 18.01.47.005.01 and 005.02.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-9, September 3, 2003, page 196 through 200.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Martha Hopper at (208) 334-4250.

Dated this 30th day of September, 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

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#### **IDAPA 18, TITLE 01, CHAPTER 59**

### **RULE TO IMPLEMENT THE RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 196 through 200.**

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

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-0201

#### NOTICE OF VACATION OF PROPOSED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Section 38-1304, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacation:

The rules were vacated in order to collect more information in response to comments.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of rulemaking, contact Jim Colla, Forest Practices Program Manager, (208) 769-1525.

DATED this 22nd day of September, 2003.

Winston A Wiggins  
Director  
Idaho Department of Lands  
954 West Jefferson Street  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone (208) 334-0200  
Fax (208) 334-2339

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.03.03 - RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND

#### DOCKET NO. 20-0303-0301

#### NOTICE OF RULEMAKING - PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 47, Chapter 18, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 50 through 56.

**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 or greater -- no participation                 |                         |                          |
| 35 to 40 acres -- \$550                                 | 20 to 25 acres -- \$400 | 5 to 10 acres -- \$250   |
| 30 to 35 acres -- \$500                                 | 15 to 20 acres -- \$350 | 2 to 5 acres -- \$200    |
| 25 to 30 acres -- \$450                                 | 10 to 15 acres -- \$300 | 2 acres or less -- \$100 |
| The fee in lieu of a mineral lease bond shall be \$100. |                         |                          |

Because of the fee being imposed through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Murray at (208) 334-0231.

DATED this 1st day of October, 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) 334-2339

**IDAPA 20**  
**TITLE 03**  
**CHAPTER 03**

**RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published  
in the Idaho Administrative Bulletin,  
Volume 03-7, July 2, 2003, pages 50 through 56.**

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



**IDAPA 20 - DEPARTMENT OF LANDS**

**20.06.01 - RULES OF PRACTICE AND PROCEDURE FOR CONTESTED CASES AND  
RULEMAKING BEFORE THE IDAHO BOARD OF SCALING PRACTICES**

**DOCKET NO. 20-0601-0301 (CHAPTER REPEAL)**

**NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, Idaho Code.

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

The repeal of this chapter in its entirety eliminates rules that are no longer needed. Rules relating to informal hearings will be incorporated in IDAPA 20.06.02, "General Rules, Licensing, and Check Scales of the Idaho Board of Scaling Practices".

The pending rule is being adopted as proposed. The original proposed rulemaking notice of repeal was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, page 201.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ernest H. Bauer at (208) 769-1445.

DATED this 1st day of October, 2003.

Ernest H. Bauer, Executive Director  
Idaho Board of Scaling Practices  
3780 Industrial Avenue South  
Coeur d'Alene, Idaho 83815-8918  
Phone: (208) 769-1445 / Fax: (208) 769-1485

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**IDAPA 20, TITLE 06, CHAPTER 01**

**RULES OF PRACTICE AND PROCEDURE FOR CONTESTED CASES AND RULEMAKING  
BEFORE THE IDAHO BOARD OF SCALING PRACTICES**

**IDAPA 20.06.01 is repealed in its entirety.**

**The complete text of the proposed rule was published in the Idaho Administrative  
Bulletin, Volume 03-9, September 3, 2003, page 201.**

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

## **IDAPA 20 - DEPARTMENT OF LANDS**

### **20.06.02 - GENERAL RULES, LICENSING, AND CHECK SCALES OF THE IDAHO BOARD OF SCALING PRACTICES**

**DOCKET NO. 20-0602-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, Idaho Code.

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

Section 67-5227, Idaho Code, allows a pending rule to vary from the proposed rule. Pursuant to this Section, the proposed rule has been amended by renumbering Sections 110 through 180 to 910 through 970 so that the Informal Hearing procedure is in a more logical place.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, pages 203 through 206.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Ernest H. Bauer at (208) 769-1445.

DATED this 1st day of October, 2003.

Ernest H. Bauer  
Executive Director  
Idaho Board of Scaling Practices  
3780 Industrial Avenue South  
Coeur d'Alene, Idaho 83815-8918  
Phone: (208) 769-1445  
Fax: (208) 769-1485

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### **IDAPA 20, TITLE 06, CHAPTER 02**

#### **GENERAL RULES, LICENSING, AND CHECK SCALES OF THE IDAHO BOARD OF SCALING PRACTICES**

**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 03-9, September 4, 2003, pages 202 through 206.

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. 20-0602-0301

*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

*Subsections 010.01, 010.04, and 010.09*

**010. DEFINITIONS.**

**01. Board.** *The State Board of Scaling Practices.* ( )

**04. Complaint.** *A written statement alleging a violation of the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code.* ( )

**09. Informal Hearing.** *Any hearing before the Board of Scaling Practices, as opposed to a formal hearing before a hearing officer designated by the Board.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. -- 199. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**SECTIONS 110 THROUGH 199 HAVE BEEN RENUMBERED TO 910 THROUGH 999**

**SECTION 180 HAS BEEN MOVED TO 931**

**831. -- 999. (RESERVED).**

**910. INFORMAL HEARINGS -- SCOPE AND AUTHORITY.**

Sections 910 through 980 shall apply to all informal hearings before the Board. These rules are adopted pursuant to Sections 38-1208 and 67-5201, et seq., Idaho Code, and are intended to facilitate the Board in executing its duties and responsibilities under Title 38, Chapter 12, Idaho Code. These rules shall be construed to effectuate the intent of the

legislature in adopting the Idaho Scaling Law in a reasonable, fair and expeditious manner. ( )

**911. -- 919. (RESERVED).**

**920. COMPLAINTS.**

**01. Submittal Of Complaint.** The complaint shall be submitted in writing in the name of the primary complainant. ( )

**02. Contents Of Complaint.** The complaint shall state: ( )

**a.** The name and address of the person or entity actually aggrieved; ( )

**b.** A short and plain statement of the nature of the complaint, including the location and date of the alleged violation; ( )

**c.** The complainant's notarized signature; ( )

**d.** The complainant shall submit, with the complaint, written or documentary evidence in support of the alleged violation; and ( )

**e.** In the case of a gross scale complaint, which alleges violations of Section 38-1220(b), Idaho Code, the complainant must also provide a readable copy of the contract, payment slips, and scale tickets for each transaction involved in the alleged complaint. ( )

**921. -- 929. (RESERVED).**

**930. RESPONSE TO COMPLAINT.**

**01. Response.** The respondent shall submit to the Board a written response to the allegations of the complaint, with supporting evidence, within thirty (30) days after receiving a copy of the same from the Board. The Board shall presume that the respondent received such complaint and evidence within three (3) days after mailing by the Board, unless the respondent submits evidence to the contrary to the Board. ( )

**02. Consideration Of Complaint.** The Board shall consider a complaint in its next meeting following the timely response of the respondent or the respondent's failure to respond within the time limit of Subsection 930.01. ( )

**931. ACCESS TO RECORDS.**

The Board shall provide to the respondent or his counsel a copy of the complaint and any supporting evidence to which the respondent does not have access, at the earliest date after the Board has received the same. The Board shall provide the complainant or his counsel a copy of any answer or response and supporting evidence thereof to which the complainant does not have access, at the earliest date after the Board has received the same. ( )

**932. -- 939. (RESERVED).**

**940. CONDUCT OF INFORMAL HEARINGS.**

**01. Hearing Procedure.** The chairman of the Board shall minimize, where possible, the use or application of formal court rules of procedure and evidence in the spirit of an informal hearing consistent with the intent of these rules, fairness to the parties, and the interests of justice. ( )

**02. Statements.** The complainant and the respondent may make a brief statement concerning the allegation(s) and may introduce new evidence in support of or in opposition to the allegation(s). Statements shall be concise, specific, relevant to the allegation(s), and limited to ten (10) minutes per party, unless the specific allegation(s) as determined by the chairman clearly requires greater time to address the same. ( )

**03. Questions Directed To The Board.** All questions at the hearing shall be directed to the Board. The Board shall consider written or oral questions from the complainant or respondent at the hearing or take such questions under advisement. ( )

**04. Questions Asked By The Board.** Only the Board may ask questions of the complainant or respondent and may call witnesses. ( )

**05. Representation By Counsel.** The complainant and the respondent may be represented by counsel. ( )

**941. -- 949. (RESERVED).**

**950. TIME FOR BOARD DETERMINATION.**

After submission of the complaint and supporting documentation for evidence in accord with Section 930, and after an informal hearing on a complaint wherein the parties have had opportunity to respond to these allegations and to present testimony, documentation, or other evidence thereon in accord with Section 940, the Board may thereafter make its determination or take the matter under advisement and reach its determination within thirty (30) days. ( )

**951. -- 959. (RESERVED).**

**960. FINAL DETERMINATION.**

The Board's determination shall be final, subject to appeal pursuant to Title 67, Chapter 52, Idaho Code. ( )

**961. -- 969. (RESERVED).**

**970. BOARD ACTION UPON DETERMINATION OF PROBABLE VIOLATION.**

In the event that the Board determines that the complaint and supporting evidence indicate a probable violation of the Idaho Scaling Law, the Board shall, within thirty (30) days after that determination, transmit the complaint and supporting documentation to the prosecutor of the county where the violation occurred. ( )

**971. -- 999. (RESERVED).**

## **IDAPA 22 - BOARD OF MEDICINE**

### **22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS**

**DOCKET NO. 22-0103-0301**

#### **NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Section(s) 54-1806 (2) and 54-1806A, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**Thursday, November 6, 2003  
9:00 a.m. to 12:00 p.m.  
Idaho State Board of Medicine  
Conference Room  
1755 Westgate Drive, Suite 140  
Boise, Idaho 83704**

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 summary of this action is found in Idaho Administrative Bulletin Volume 03-10, dated October 1, 2003, pages 349 through 360.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 14, 2003.

DATED this 16th day of October, 2003.

Nancy M. Kerr, Executive Director  
Idaho State Board of Medicine  
Westgate Office Plaza  
1755 Westgate Drive, Suite 140  
Boise, Idaho 83704  
Phone: (208) 327-7000  
Fax: (208) 327-7005

## **IDAPA 31 - PUBLIC UTILITIES COMMISSION**

### **31.71.03 - RAILROAD SAFETY/SANITATION RULES**

**DOCKET NO. 31-7103-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-113 and 61-515, Idaho Code.

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

The pending rule is being adopted as proposed. No public comments were received in response to the proposed rule. The original text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 207 and 208.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 30th day of September, 2003.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington St. (83702-5983)  
PO Box 83720  
Boise, ID 83720-0074  
Telephone: (208) 334-0338  
FAX: (208) 334-3762

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### **IDAPA 31, TITLE 71, CHAPTER 03**

#### **RAILROAD SAFETY/SANITATION RULES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 207 and 208.**

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

## **IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

### **39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS**

**DOCKET NO. 39-0322-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312, 49-1004, and 49-1010, Idaho Code.

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

The purpose of this rulemaking is to bring this rule into compliance with HB395 and SB1053, both effective July 1, 2003. No public comments were received.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, pages 115 through 119.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Frew, Port of Entry Manager, 334-8694.

DATED this 1st day of October, 2003.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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### **IDAPA 39, TITLE 03, CHAPTER 22**

#### **RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 115 through 119.**

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



## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

DOCKET NO. 39-0343-0301

#### NOTICE OF RULEMAKING - PENDING RULE

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312(3) and 67-5229, Idaho Code.

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

In response to additional department input and pursuant to Section 67-5227, Idaho Code, the proposed rule is being amended. The reference to language governing administrative appeals was changed from IDAPA 39.03.42, "Rules Governing Highway Right-of-Way Encroachments on State Right-of-Way," to the document incorporated by reference. The purpose is to make that information more readily available to the applicant.

The document incorporated by reference has also been amended to reflect the appropriate language for administrative appeals. Other language has been added for clarification. Copies are available upon request. No other public comments were received.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 227 through 230.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jonathan Lenhart, Utility/Railroad Engineer, 332-7894.

DATED this 1st day of October, 2003.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129  
Boise ID 83707-1129  
Phone: 208-334-8810  
FAX: 208-334-8195

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IDAPA 39  
TITLE 03  
CHAPTER 43

RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

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 03-9, September 3, 2003, pages 227 through 230.

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.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 39-0343-0301

*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter shall be governed by Section 2.4 "Administrative Appeal" of the "Utility Accommodation Policy" incorporated by reference. ( )

## **IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

### **39.03.46 - RULES GOVERNING STUDED TIRES**

#### **DOCKET NO. 39-0346-0301 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201 and 49-948, Idaho Code.

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

The purpose of this rulemaking is to repeal this Administrative Rule. HB231, effective July 1, 2003, incorporates the provisions of IDAPA 39.03.46 into Idaho Code, eliminating the need for this rule. No public comments were received regarding this rulemaking.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, Page 121.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Greg Laragan, Assistant Chief Engineer, Operations, 334-8535.

DATED this 1st day of October, 2003.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810 / FAX: 208-334-8195

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### **IDAPA 39, TITLE 03, CHAPTER 46**

#### **RULES GOVERNING STUDED TIRES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, page 121.**

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

**IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR**

**44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR**

**DOCKET NO. 44-0101-0301**

**NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5206, Idaho Code.

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

There are no changes to the pending rule and it is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 77 through 79.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dennis Stevenson, Assistant Administrative Rules Coordinator, at (208) 332-1822.

DATED this 23rd day of September, 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

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**IDAPA 44, TITLE 01, CHAPTER 01**

**RULES OF THE ADMINISTRATIVE RULES COORDINATOR**

**There are no substantive changes from the proposed rule text.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 77 through 79.**

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

**IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR**

**44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR**

**DOCKET NO. 44-0101-0302**

**NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5206, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 80 and 81.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 67-5205(2) and 67-5206, Idaho Code.

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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dennis Stevenson, Assistant Administrative Rules Coordinator, at (208) 332-1822.

DATED this 23rd day of September, 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

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**IDAPA 44, TITLE 01, CHAPTER 01**

**RULES OF THE ADMINISTRATIVE RULES COORDINATOR**

**There are no substantive changes from the proposed rule text.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 80 and 81.**

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

## **IDAPA 48 - DEPARTMENT OF COMMERCE**

### **48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**DOCKET NO. 48-0103-0302**

#### **NOTICE OF RULEMAKING - PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

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

To change the existing, required radio advertising credit statement and replace with a message driven, Idaho Travel Council approved statement.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 232 through 234.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

DATED this 25th day of September, 2003.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720, Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631

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### **IDAPA 48, TITLE 01, CHAPTER 03**

#### **RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 232 through 234.**

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

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0302

### NOTICE OF NEGOTIATED RULEMAKING

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

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

**November 19, 2003, 1 p.m. to 5 p.m.**  
**Department of Environmental Quality, Conference Room C**  
**1410 N. Hilton, Boise, Idaho**

**PRELIMINARY DRAFT:** By November 5, 2003, a preliminary draft of the rule can be obtained at [www.state.id.us/deq/rules/58-0101-0302\\_negotiated.htm](http://www.state.id.us/deq/rules/58-0101-0302_negotiated.htm) or by contacting Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

**DESCRIPTIVE SUMMARY:** Effective June 27, 2003, the Environmental Protection Agency amended 40 CFR, Part 70, Section 70.6 to require Title V sources to identify specific information when submitting compliance certifications. Federal regulation requires the Department of Environmental Quality (DEQ) to adopt and incorporate this revision into the Rules for the Control of Air Pollution in Idaho by June 28, 2004. DEQ has initiated negotiated rulemaking to consider language for the incorporation of the amended provisions of 40 CFR, Part 70, Section 70.6(c)(5)(iii)(B) and (C) into the Rules for the Control of Air Pollution in Idaho. The proposed revision will add a requirement for compliance certifications from Title V sources to identify whether compliance with each air quality permit term and condition that is the basis of the certification was continuous or intermittent during the covered reporting period.

All sources of air pollution that fall within the scope, or may fall within the scope, of Title V of the federal Clean Air Act are affected by this rule revision. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to participate in this rulemaking to better understand compliance reporting.

DEQ intends to conclude the negotiations by December 2003, publish a proposed rule for public comment in the May 2004 issue of the Idaho Administrative Bulletin, and then present the final proposal to the Board of Environmental Quality for adoption of a pending/temporary rule in June 2004.

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

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

Anyone may submit written comments on the preliminary draft by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before November 26, 2003.

Dated this 24th day of September, 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





# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0303

### NOTICE OF NEGOTIATED RULEMAKING

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

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

**December 2, 2003, 1 p.m. to 5 p.m.**  
**Department of Environmental Quality**  
**Conference Room B**  
**1410 N. Hilton, Boise, Idaho**

**December 16, 2003, 8 a.m. to 5 p.m.**  
**Department of Environmental Quality**  
**Conference Room B**  
**1410 N. Hilton, Boise, Idaho**

**DESCRIPTIVE SUMMARY:** In accordance with IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho, the Department of Environmental Quality (DEQ) is required to review the Title V air quality operating permit registration fees set out in Subsection 389.06 every two years to assure the funds meet the presumptive minimum amount as defined by the U.S. Environmental Protection Agency. Payment of the Title V permit program costs by a fee is mandated by the Clean Air Act. By federal law, the state of Idaho cannot maintain primacy for the Title V program unless it collects fees sufficient to cover all reasonable direct and indirect costs required to develop and implement the program. This rulemaking will provide the opportunity for DEQ and the regulated community to review the existing Title V fee structure to determine if funding is adequate. This rulemaking will allow adjustments to be made to ensure that DEQ has sufficient funding to cover the direct and indirect costs of administering the Title V air quality program as required by the federal Clean Air Act.

The text of the rule will be developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. All regulated sources of air emissions that fall within the scope, or may fall within the scope, of Title V of the Clean Air Act are affected by this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to participate in this rulemaking.

DEQ intends to conclude the negotiations by May 2004, publish a proposed rule for public comment in the August 2004 issue of the Idaho Administrative Bulletin, and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2004.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning the negotiated rulemaking, contact Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

Dated this 24th day of September, 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

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0304

### NOTICE OF NEGOTIATED RULEMAKING

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

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

**November 12, 2003, 8 a.m. to 12 noon**  
**Department of Environmental Quality**  
**Conference Room D**  
**1410 N. Hilton, Boise, Idaho**

**DESCRIPTIVE SUMMARY:** The U.S. Environmental Protection Agency has revised regulations in 40 CFR, Parts 50 and 51, governing the New Source Review programs mandated by Title I of the Clean Air Act. The Department of Environmental Quality (DEQ) is initiating negotiated rulemaking to incorporate these changes into the Rules for the Control of Air Pollution in Idaho. Incorporation of the revisions to 40 CFR, Parts 50 and 51 into the Rules for the Control of Air Pollution in Idaho will include changes in New Source Review applicability requirements for modifications to allow sources of air emissions greater regulatory certainty, flexibility and permit streamlining while ensuring protection of public health and the environment.

The text of the rule will be developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air emissions may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to participate in this rulemaking.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning the negotiated rulemaking, contact Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

Dated this 26th day of September, 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

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0301

#### NOTICE OF NEGOTIATED RULEMAKING

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

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Mark Mason at (208) 373-0266 or mmason@deq.state.id.us.

**November 18, 2003, 8 a.m. to 5 p.m.**  
**Department of Environmental Quality**  
**Conference Rooms C and D**  
**1410 N. Hilton, Boise, Idaho**

**PRELIMINARY DRAFT:** By November 5, 2003, a preliminary draft of the rule can be obtained at [www.state.id.us/deq/rules/58-0117-0301\\_negotiated.htm](http://www.state.id.us/deq/rules/58-0117-0301_negotiated.htm) or by contacting Lori Duran at (208) 373-0215 or lduran@deq.state.id.us.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to add an additional class of treated wastewater to the Wastewater-Land Application Rules for reuse. This will add a class of more highly treated wastewater that can be used for more purposes, including aquifer recharge, residential irrigation, wetland, stream, and lake augmentation, toilet flushing, car wash, laundry, water features, recreation, etc.

This rulemaking will add definitions; additional application requirements for this new class including engineering report requirements; treatment and monitoring requirements; requirements for municipal reuse distribution systems; and technical, managerial, financial, and legal requirements. Municipalities, industry, consulting engineers, land developers, EPA, and other government agencies may be interested in participating in this rulemaking.

DEQ intends to conclude the negotiations by April 2004, publish a proposed rule for public comment in the July 2004 issue of the Idaho Administrative Bulletin, and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2004.

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

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the negotiated rulemaking, contact Mark Mason at (208) 373-0266 or mmason@deq.state.id.us.

Anyone may submit written comments on the preliminary draft by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before November 26, 2003.

Dated this 6th day of October, 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

# Subjects Affected Index

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Docket No. 39-0343-0301

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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

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

#### **IDAPA 11 – IDAHO STATE POLICE PO Box 700, Meridian, ID 83680-0700**

**This docket published in the October Bulletin and this notice is being reprinted here to include information that was inadvertently left out.**

**11-0501-0301, Rules Governing Alcohol Beverage Control.** Revises definition of “restaurant” to provide licensees with more specific information upon which to make business decisions and to allow more consistent enforcement of Title 23, Alcohol Beverage Code; provides licensees with specific period of time, following loss or move of a licensed premise, to secure and occupy a new premise and display the alcohol beverage license.

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

**16-0309-0311, Rules Governing the Medical Assistance Program.** Adds definitions to reflect the new business practice; specifies timeline for development of service plan following discharge from inpatient hospitalization; describes the responsibilities of the Department and of the service provider; clarifies the service description; adds criminal history check as a provider qualification; adds specifications for record requirements; and explains service limitations in greater detail. For mental health clinics and the partial care services: expands mental health clinic provider agency requirements; adds criminal history check as a provider qualification; redefines and expand the definition of the partial care service; and provides new requirements for building safety standards. Comment by: 11/26/03.

#### **PUBLIC HEARINGS HAVE BEEN SCHEDULED FOR THE FOLLOWING DOCKETS:**

Division of Building Safety

**#07-0701-0301** - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

Department of Health and Welfare

**#16-0309-0311** - Rules Governing the Medical Assistance Program

State Board of Medicine

**#22-0103-0301** - Rules for the Licensure of Physician Assistants

#### **PUBLIC MEETINGS WILL BE HELD FOR THE FOLLOWING NEGOTIATED RULEMAKINGS:**

Department of Environmental Quality

**#58-0101-0302; #58-0101-0303; #58-0101-0304** – Rules for the Control of Air Pollution in Idaho

**#58-0117-0301** - Wastewater-Land Application Permit Rules

Please refer to the Idaho Administrative Bulletin, **November 5, 2003, Volume 03-11** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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**CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

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**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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