

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

January 7, 2004 -- Volume 04-1

TABLE OF CONTENTS.....	1
PREFACE	9
<u>IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY</u>	
01.01.01 - Idaho Accountancy Rules	
Docket No. 01-0101-0401	
Notice of Rulemaking - Temporary and Proposed Rule	16
<u>IDAPA 02 - DEPARTMENT OF AGRICULTURE</u>	
02.01.04 - Rules Governing The Idaho Preferred™ Promotion Program	
Docket No. 02-0104-0301	
Notice of Rulemaking - Pending Fee Rule.....	18
02.02.12 - Bonded Warehouse Rules	
Docket No. 02-0212-0301	
Notice of Rulemaking - Pending Fee Rule.....	19
02.02.13 - Commodity Dealers' Rules	
Docket No. 02-0213-0301	
Notice of Rulemaking - Pending Fee Rule.....	20
02.02.15 - Rules Governing The Seed Indemnity Fund	
Docket No. 02-0215-0301	
Notice of Rulemaking - Pending Fee Rule.....	21
02.06.25 - Small Legume Seeds	
Docket No. 02-0625-0301 - (Chapter Repeal)	
Notice of Rulemaking - Pending Rule.....	22
<u>IDAPA 07 - DIVISION OF BUILDING SAFETY</u>	
07.07.01 - Rules Governing Installation Of Heating, Ventilation, And Air Conditioning Systems	
Docket No. 07-0701-0301	
Notice of Rulemaking - Pending Fee Rule.....	23
<u>IDAPA 08 - STATE BOARD OF EDUCATION</u>	
08.02.02 - Rules Governing Uniformity	
Docket No. 08-0202-0302	
Notice of Rulemaking - Pending Fee Rule.....	24
08.02.02 - Rules Governing Uniformity	
Docket No. 08-0202-0303	
Notice of Rulemaking - Pending Rule.....	26

08.02.02 - Rules Governing Uniformity

Docket No. 08-0202-0304
Notice of Rulemaking - Pending Rule.....29

08.02.03 - Rules Governing Thoroughness

Docket No. 08-0203-0301
Notice of Rulemaking - Pending Rule.....32

IDAPA 13 - IDAHO FISH AND GAME COMMISSION**13.01.02 - Rules Governing Public Safety**

Docket No. 13-0102-0301
Notice of Rulemaking - Pending Rule.....39

13.01.04 - Rules Governing Licensing

Docket No. 13-0104-0301
Notice of Rulemaking - Pending Rule.....40

13.01.08 - Rules Governing The Taking Of Big Game Animals In The State Of Idaho

Docket No. 13-0108-0301
Notice of Rulemaking - Pending Rule.....41

13.01.12 - Rules Governing Commercial Fishing In The State Of Idaho

Docket No. 13-0112-0301
Notice of Rulemaking - Pending Rule.....42

IDAPA 15 - OFFICE OF THE GOVERNOR**DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION****15.04.01 - Rules Of The Division Of Human Resources And Personnel Commission**

Docket No. 15-0401-0301
Notice of Rulemaking - Pending Rule.....43

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**16.02.03 - Rules Governing Emergency Medical Services**

Docket No. 16-0203-0401
Notice of Rulemaking - Temporary And Proposed Rule60

16.02.10 - Idaho Reportable Diseases

Docket No. 16-0210-0401
Notice of Rulemaking - Temporary and Proposed Rule78

16.02.14 - Rules Governing Construction And Operation Of Public Swimming Pools In Idaho

Docket No. 16-0214-0301
Notice of Rulemaking - Pending Fee Rule.....110

16.02.19 - Rules Governing Food Safety And Sanitation Standards For Food Establishments

Docket No. 16-0219-0301 - (Chapter Repeal)
Notice of Rulemaking - Pending Rule.....111

Docket No. 16-0219-0302 - (Chapter Rewrite)
Notice of Rulemaking - Pending Rule.....112

16.03.01 - Rules Governing Eligibility For Medicaid For Families And Children	
Docket No. 16-0301-0302	
Pending Rule and Amendment to Temporary Rule	114
16.03.04 - Rules Governing The Food Stamp Program In Idaho	
Docket No. 16-0304-0301	
Pending Rule and Amendment to Temporary Rule	115
16.03.05 - Rules Governing Aid To The Aged, Blind And Disabled (AABD)	
Docket No. 16-0305-0302	
Pending Rule and Amendment to Temporary Rule	119
16.03.08 - Rules Governing Temporary Assistance For Families In Idaho (TAFI)	
Docket No. 16-0308-0302	
Notice of Rulemaking - Pending Rule.....	122
16.03.09 - Rules Governing The Medical Assistance Program	
Docket No. 16-0309-0307	
Pending Rule and Amendment to Temporary Rule	123
Docket No. 16-0309-0310	
Pending Rule and Amendment to Temporary Rule	127
16.03.10 - Rules Governing Medicaid Provider Reimbursement In Idaho	
Docket No. 16-0310-0303	
Notice of Rulemaking - Pending Rule.....	131
16.03.13 - Prior Authorization For Behavioral Health Services	
Docket No. 16-0313-0301	
Pending Rule and Amendment to Temporary Rule	133
16.03.17 - Service Coordination	
Docket No. 16-0317-0301 - (New Chapter)	
Notice of Rulemaking - Pending Rule.....	140
16.03.22 - Rules For Licensed Residential And Assisted Living Facilities	
Docket No. 16-0322-0301	
Notice of Rulemaking - Pending Rule.....	142
16.03.23 - Rules Governing Uniform Assessments For State-Funded Clients	
Docket No. 16-0323-0301	
Pending Rule and Amendment to Temporary Rule	143
16.04.11 - Rules Governing Developmental Disabilities Agencies (DDA)	
Docket No. 16-0411-0301	
Pending Rule and Amendment to Temporary Rule	145
16.04.17 - Rules Governing Residential Habilitation Agencies	
Docket No. 16-0417-0301	
Pending Rule and Amendment to Temporary Rule	155
16.05.01 - Rules Governing The Protection And Disclosure Of Department Records	

Docket No. 16-0501-0301 - (Chapter Repeal) Notice of Rulemaking - Pending Rule.....	158
16.05.01 - Use And Disclosure Of Department Records Docket No. 16-0501-0302 - (Chapter Rewrite) Notice of Rulemaking - Pending Rule.....	159
16.06.01 - Rules Governing Family And Children's Services Docket No. 16-0601-0401 Notice of Rulemaking - Temporary and Proposed Rule	160
<u>IDAPA 19 - BOARD OF DENTISTRY</u>	
19.01.01 - Rules Of The Idaho State Board Of Dentistry Docket No. 19-0101-0301 Notice of Rulemaking - Pending Rule.....	162
<u>IDAPA 22 - BOARD OF MEDICINE</u>	
22.01.03 - Rules Of The Licensure Of Physician Assistants Docket No. 22-0103-0301 Notice of Rulemaking - Pending Fee Rule.....	164
22.01.04 - Rules Of The Board Of Medicine For Registration Of Supervising Physicians Docket No. 22-0104-0301 Notice of Rulemaking - Pending Fee Rule.....	169
22.01.10 - Rules For The Registration Of Athletic Trainers To Practice In Idaho Docket No. 22-0110-0301 Notice of Rulemaking - Pending Fee Rule.....	173
22.01.11 - Rules For Licensure Of Respiratory Therapists In Idaho Docket No. 22-0111-0301 Notice of Rulemaking - Pending Fee Rule.....	180
<u>IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD</u>	
25.01.01 - Rules Of The Outfitters And Guides Licensing Board Docket No. 25-0101-0302 Notice of Rulemaking - Pending Fee Rule.....	184
<u>IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION</u>	
26.01.20 - Rules Governing The Administration Of Park And Recreation Areas And Facilities Docket No. 26-0120-0301 Notice of Rulemaking - Pending Fee Rule.....	186
<u>IDAPA 33 - IDAHO REAL ESTATE COMMISSION</u>	
33.01.01 - Rules Of The Idaho Real Estate Commission Docket No. 33-0101-0301 Notice of Rulemaking - Pending Rule.....	187
<u>IDAPA 34 - SECRETARY OF STATE</u>	
34.02.02 - Rules Governing Complaint Process Under The Help America Vote Act	

Docket No. 34-0202-0301 Notice of Rulemaking - Pending Rule.....	188
<u>IDAPA 35 - STATE TAX COMMISSION</u>	
35.01.01 - Income Tax Administrative Rules	
Docket No. 35-0101-0301 Notice of Rulemaking - Pending Rule.....	189
35.01.01 - Income Tax Administrative Rules	
Docket No. 35-0101-0302 Notice of Rulemaking - Pending Rule.....	190
35.01.01 - Income Tax Administrative Rules	
Docket No. 35-0101-0303 Notice of Rulemaking - Pending Rule.....	191
35.01.03 - Property Tax Administrative Rules	
Docket No. 35-0103-0301 Notice of Rulemaking - Pending Rule.....	192
35.01.03 - Property Tax Administrative Rules	
Docket No. 35-0103-0302 Notice of Rulemaking - Pending Rule.....	193
35.01.03 - Property Tax Administrative Rules	
Docket No. 35-0103-0303 Pending Rule and Amendment to Temporary Rule	194
35.02.01 - Tax Commission Administration And Enforcement Rules	
Docket No. 35-0201-0301 Notice of Rulemaking - Pending Rule.....	196
35.02.01 - Tax Commission Administration And Enforcement Rules	
Docket No. 35-0201-0302 Notice of Rulemaking - Pending Rule.....	197
<u>IDAPA 37 - DEPARTMENT OF WATER RESOURCES</u>	
37.02.03 - Water Supply Bank Rules	
Docket No. 37-0203-0301 Notice of Rulemaking - Pending Rule.....	199
<u>IDAPA 50 - COMMISSION OF PARDONS AND PAROLE</u>	
50.01.01 - Rules Of The Commission Of Pardons And Parole	
Docket No. 50-0101-0302 Notice of Rulemaking - Pending Rule.....	200
<u>IDAPA 57 - SEXUAL OFFENDER CLASSIFICATION BOARD</u>	
57.01.01 - Rules Governing The Sexual Offender Classification Board	
Docket No. 57-0101-0401 - (Fee Rule) Notice of Rulemaking - Temporary and Proposed Rule	201

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Docket No. 58-0000-0401
Notice Of Final Decision On The South Fork Clearwater River TMDL214

58.01.01 - Rules For The Control Of Air Pollution In Idaho
Docket No. 58-0101-0302
Notice of Rulemaking - Proposed Rule.....215

58.01.02 - Water Quality Standards And Wastewater Treatment Requirements
Docket No. 58-0102-0301
Pending Rule and Amendment to Temporary Rule222

Docket No. 58-0102-0401
Notice of Rulemaking - Temporary and Proposed Rule225

58.01.05 - Rules And Standards For Hazardous Waste
Docket No. 58-0105-0301
Notice of Rulemaking - Pending Rule.....227

58.01.08 - Idaho Rules For Public Drinking Water Systems
Docket No. 58-0108-0301
Notice of Rulemaking - Pending Fee Rule.....228

Docket No. 58-0108-0302
Notice of Rulemaking - Pending Rule.....230

**58.01.10 - Rules Regulating The Disposal Of Radioactive Materials Not Regulated
Under The Atomic Energy Act Of 1954, As Amended**
Docket No. 58-0110-0301
Notice of Rulemaking - Pending Rule.....231

SUBJECTS AFFECTED INDEX232

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS239

**FIRST QUARTER 2004 CUMULATIVE RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES241**

SUBJECT INDEX400

Preface

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

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

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

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

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

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

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

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

NEGOTIATED RULEMAKING

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

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

PROPOSED RULEMAKING

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

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

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

TEMPORARY RULEMAKING

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

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

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

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

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

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

PENDING RULEMAKING

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

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

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

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

FINAL RULEMAKING

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

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

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

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

SUBSCRIPTIONS AND DISTRIBUTION

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

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

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

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

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

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

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

IDAPA 38.05.01.060.02.c.ii.

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

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

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

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

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

"02." refers to Subsection 060.02.

"c." refers to Paragraph 060.02.c.

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

DOCKET NUMBERING SYSTEM

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

"DOCKET NO. 38-0501-0301"

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

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

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

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

"(BREAK IN CONTINUITY OF SECTIONS)"

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

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

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

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

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

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

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

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

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

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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2003

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
03-1	January, 2003	*November 13, 2002	January 1, 2003	January 22, 2003
03-2	February, 2003	January 1, 2003	February 5, 2003	February 26, 2003
03-3	March, 2003	February 5, 2003	March 5, 2003	March 26, 2003
03-4	April, 2003	March 5, 2003	April 2, 2003	April 23, 2003
03-5	May, 2003	April 2, 2003	May 7, 2003	May 28, 2003
03-6	June, 2003	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	**August 20, 2003	October 1, 2003	October 22, 2003
03-11	November, 2003	October 1, 2003	November 5, 2003	November 26, 2003
03-12	December, 2003	October 29, 2003	December 3, 2003	December 24, 2003

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Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
04-1	January, 2004	*November 19, 2003	January 7, 2004	January 28, 2004
04-2	February, 2004	January 7, 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	**August 25, 2004	October 6, 2004	October 27, 2004
04-11	November, 2004	October 6, 2004	November 3, 2004	November 24, 2004
04-12	December, 2004	November 3, 2004	December 1, 2004	December 22, 2004

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

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

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

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

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

IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

01.01.01 - IDAHO ACCOUNTANCY RULES

DOCKET NO. 01-0101-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-204(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 21, 2004.

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

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

Updates Rule 004 Incorporation by Reference to refer to 2004 AICPA Professional Standards and to include standards issued by the Public Company Accountability Oversight Board (PCAOB) created by the Sarbanes-Oxley Act of 2002.

Idaho Accountancy Rules comply with Idaho State Law by using the effective date when incorporating standards by rule. Idaho's rules incorporate AICPA and PCAOB Standards as requirements our licensees must meet when applicable.

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

The AICPA Standards are updated throughout the year on an as-needed basis. They are not updated on a date-specific basis. Therefore, Idaho Accountancy Rules must be updated on an annual basis, as of January 1st, to cover any and all changes that may occur throughout the calendar year.

The Public Company Accountability Oversight Board (PCAOB) was newly formed by the federal Sarbanes-Oxley Act of 2002. The PCAOB is issuing standards for auditors of publicly traded companies. Idaho licensees must follow these standards. The temporary rule is necessary to protect the public's welfare.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Board of Accountancy notified stakeholders by newsletters on the issues.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2004.

DATED this 13 Day of November, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-0401

004. INCORPORATION BY REFERENCE. (Rule 004).

The following documents are hereby incorporated by reference into IDAPA 01.01.01 and can be obtained at the Board office. Licensees are required to comply with the following standards when applicable. ~~(4-2-03)~~(1-1-04)T

01. AICPA Standards. 200~~2~~4 AICPA Professional Standards, except as superceded by Section 54-206(8), Idaho Code. ~~(4-2-03)~~(1-1-04)T

02. CPE Standards. 2002 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (4-2-03)

03. PCAOB Standards. 2004 Standards issued by the Public Company Accountability Oversight Board. (1-1-04)T

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED™ PROMOTION PROGRAM

DOCKET NO. 02-0104-0301

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-112, 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 August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, pages 14 through 20.

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 Section 22-112, Idaho Code, and the fee is described herein: The rule is necessary to comply with federal grant funding deadlines. Any delay in implementation poses a danger of losing the grant funding for launching the voluntary promotion program. Section 22-112, Idaho Code, authorizes the assessment of fees for the voluntary programs. Fees will be set annually by the Director and shall not exceed \$1,000 per year.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura Johnson, Bureau Chief, at (208) 332-8533 or Peter Mundt, Program Manager, at (208) 332-8684.

DATED this 18th day of November, 2003.

Michael E. Cooper, Acting Director
Department of Agriculture
2270 Old Penitentiary Road
PO Box 790, Boise, Idaho 83701
Phone: 208-332-8500 / Fax: 208-334-2170

IDAPA 02, TITLE 01, CHAPTER 04

RULES GOVERNING THE IDAHO PREFERRED™ PROMOTION 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 03-8, August 6, 2003, pages 14 through 20.

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 02 - DEPARTMENT OF AGRICULTURE

02.02.12 - BONDED WAREHOUSE RULES

DOCKET NO. 02-0212-0301

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 69-231, 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 14 through 18.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. A requirement for maintaining an Idaho Warehouse license is to have a surety bond, irrevocable letter of credit or a certificate of deposit. The docket establishes clarification of guidelines for the issuance of a single bond, irrevocable letter of credit and certificate of deposit.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Russel Dapsauski, Warehouse Control Program Manager, at (208) 332-8612.

DATED this 18th day of November, 2003.

Michael E. Cooper, Acting Director
Department of Agriculture
2270 Old Penitentiary Road
PO Box 790, Boise, Idaho 83701
Phone: 208-332-8500 / Fax: 208-334-2170

IDAPA 02, TITLE 02, CHAPTER 12

BONDED WAREHOUSE 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 14 through 18.](#)

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 02 - DEPARTMENT OF AGRICULTURE

02.02.13 - COMMODITY DEALERS' RULES

DOCKET NO. 02-0213-0301

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 69-524, 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 19 through 23.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. A requirement for maintaining an Idaho Commodity Dealer license is to have a surety bond, irrevocable letter of credit or a certificate of deposit. The docket establishes clarification of guidelines for the issuance of a single bond, irrevocable letter of credit and certificate of deposit.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Russel Dapsauski, Warehouse Control Program Manager, at (208) 332-8612.

DATED this 18th day of November, 2003.

Michael E. Cooper, Acting Director
Department of Agriculture
2270 Old Penitentiary Road
PO Box 790, Boise, Idaho 83701
Phone: 208-332-8500 / Fax: 208-334-2170

IDAPA 02, TITLE 02, CHAPTER 13

COMMODITY DEALERS' 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 19 through 23.](#)

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 02 - DEPARTMENT OF AGRICULTURE
02.02.15 - RULES GOVERNING THE SEED INDEMNITY FUND
DOCKET NO. 02-0215-0301
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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-5129, 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 29 and 30.

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 Section 22-5129, Idaho Code. A requirement for maintaining an Idaho Seed Buyer license is to have a surety bond, an irrevocable letter of credit or a certificate of deposit. The docket establishes clarification of guidelines for the issuance of a single bond, irrevocable letter of credit or a certificate of deposit.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Russel Dapsauski, Warehouse Control Program Manager, at (208) 332-8612.

DATED this 18th day of November, 2003.

Michael E. Cooper, Acting Director
Department of Agriculture
2270 Old Penitentiary Road
PO Box 790, Boise, Idaho 83701
Phone: 208-332-8500 / Fax: 208-334-2170

IDAPA 02, TITLE 02, CHAPTER 15
RULES GOVERNING THE SEED INDEMNITY 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 03-9, September 3, 2003, pages 29 and 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.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.25 - SMALL LEGUME SEEDS

DOCKET NO. 02-0625-0301 - (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 after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, 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 69-231, 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 October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, page 29.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Russel Dapsauski, Warehouse Control Program Manager, at (208) 332-8612.

DATED this 18th day of November, 2003.

Michael E. Cooper, Acting Director
Department of Agriculture
2270 Old Penitentiary Road
PO Box 790, Boise, Idaho 83701
Phone: 208-332-8500 / Fax: 208-334-2170

THIS CHAPTER IS REPEALED IN ITS ENTIRETY

IDAPA 02, TITLE 06, CHAPTER 25

SMALL LEGUME SEEDS

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 03-10, October 1, 2003, page 29.](#)

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 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-0301

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 Section 54-5005(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 October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 49 through 55.

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 Section 54-5005(1), Idaho Code. Fees to be charged for permits and inspections for heating, ventilation and air conditioning systems under the jurisdiction of the state are to be established by the Idaho Heating, Ventilation and Air Conditioning Board as set forth in Section 54-5005(1), Idaho Code.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dave Munroe, Administrator, 332-7100.

DATED this 19th day of November, 2003.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St., Meridian, Idaho 83642
Phone: (208) 334-3951 / Fax: (208) 855-2164

IDAPA 07, TITLE 07, CHAPTER 01

RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

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 03-10, October 1, 2003, pages 49 through 55.](#)

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 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0302

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 adoption. 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 Article IX, Section 2 of the Idaho Constitution and under sections 33-105, 33-107, 33-2804, 33-3104, 33-3006, 33-4005, and 33-2211, 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.

Removes the requirement that a teacher is required to have an endorsement in Biology, Physics, Chemistry, or Geology in order to receive a Natural Science endorsement. Allows teachers who possess an endorsement in Agricultural Science and Technology, complete a minimum of 20 hours of coursework plus a lab in the Biological Sciences, Physical Science, and Earth Science, and receive a passing score on the Praxis test, to receive an endorsement in Natural Science.

The proposed rules have been amended in response to comment and to make clarifications and clerical corrections.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 58 through 80.

FEE SUMMARY: Fees for teacher certification were included in the proposed rule. Certification fees have been and continue to be set in Section 33-1205, Idaho Code; however, the fee provisions in Section 33-1205, Idaho Code, will sunset on December 31, 2004, at which time they "shall be as specified by rule of the state board of education". The fee levels provided in the proposed rule are in the exact same amount as those fees currently provided for in Section 33-1205, Idaho Code.

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.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Karen Gustafson at 334-2270.

DATED this 5th day of November, 2003.

Karen Gustafson
State Board of Education
650 W. State St.
PO Box 83720
Boise, ID 83720-0037
Phone: 208-334-2270
Fax: 208-334-2632

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 03-10, October 1, 2003, pages 58 through 80.](#)

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

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0302

SUBSECTION 024.05.a. and 024.05.b. (Partial Section)

024. ENDORSEMENTS M - Z.

05. Natural Science (6-12). *Follow one (1) of the following options:* ()

a. Option I: Must have an endorsement in biology, physics, chemistry, or geology, plus a minimum of twenty (20) semester credit hours to include a basic course plus a lab in each of the following areas: Biology; Physics; Chemistry; and Geology. The remaining course work may be taken from any of the following Natural Science areas: Biological Sciences; Botany; Zoology; Physical Science; Earth Science; Astronomy; Oceanography; Ecology; or Linnology ()

b. Option II: Possess an endorsement in Agriculture Science & Technology and complete a minimum of twenty (20) hours of coursework to include a basic course plus a lab in the Biological Sciences; Physical Science, and Earth Science. The remaining course work may be taken in Botany, Zoology, Chemistry, Physics, Geology, Astronomy, Oceanography, Ecology, or Linnology. A passing score on the Praxis test for Natural Science is required. ()

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0303

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 adoption. 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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1201, 33-1204, 33-1208, 33-1209, and 33-1254, 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.

Completely alphabetized Section 077, "Definitions for Use with the Code of Ethics" to make it more user friendly.

The proposed rules have been amended to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 81 through 86.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Karen Gustafson at 334-2270.

DATED this 19th day of November 2003.

Karen Gustafson
State Board of Education
650 W. State St.
PO Box 83720
Boise, ID 83720-0037
Phone: 208-334-2270
Fax: 208-334-2632

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 03-10, October 1, 2003, pages 76 through 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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0303

SECTION 077 (Entire Section)

077. DEFINITIONS FOR USE WITH THE CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).

01. Administrative Complaint. A document issued by the State Department of Education outlining the specific, purported violations of Section 33-1208, Idaho Code, or the Code of Ethics for Idaho Professional Educators. ()

02. Allegation. A purported violation of the Code of Ethics for Idaho Professional Educators or Idaho Code. ()

03. Certificate. A document issued by the Department of Education under the authority of the State Board of Education allowing a person to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian (Section 33-1201, Idaho Code). ()

04. Certificate Denial. The refusal of the state to grant a certificate for an initial or reinstatement application. ()

05. Certificate Suspension. A time-certain invalidation of any Idaho certificate as determined by a stipulated agreement or a due process hearing panel as set forth in Section 33-1209, Idaho Code. ()

06. Complaint. A signed document defining the allegation that states the specific ground or grounds for revocation, suspension or issuance of a letter of reprimand (Section 33-1209(1), Idaho Code). The State Department of Education may initiate a complaint. ()

07. Conditional Certificate. Allows an educator to retain licensure under certain stated Certificate conditions as determined by the Professional Standards Commission (Section 33-1209(10), Idaho Code). ()

08. Contract. Any signed agreement between the school district and a certificated educator pursuant to Section 33-513(1), Idaho Code. ()

09. Conviction. Refers to all instances regarding a finding of guilt by a judge or jury; a plea of guilt by Nolo Contendere or Alford plea; or all proceedings in which a sentence has been suspended, deferred or withheld. ()

10. Educator. A person who holds or applies for an Idaho Certificate (Section 33-1001(16) and

Section 33-1201, Idaho Code). ()

11. Executive Committee. A decision-making body comprised of members of the Professional Standards Commission, including the chair and vice-chair of the Commission. A prime duty of the Committee is to review purported violations of the Code of Ethics for Idaho Professional Educators to determine probable cause and direction for possible action to be taken against a Certificate holder. ()

12. Education Official. An individual identified by local school board policy, including, but not limited to, a superintendent, principal, assistant principal, or school resource officer (SRO). ()

13. Hearing. A formal review proceeding that ensures the respondent due process. The request for a hearing is initiated by the respondent and is conducted by a panel of peers. ()

14. Hearing Panel. A minimum of three (3) educators appointed by the chair of the Professional Standards Commission and charged with the responsibility to make a final determination regarding the charges specifically defined in the Administrative Complaint. ()

15. Investigation. The process of gathering factual information concerning a valid, written complaint in preparation for review by the Professional Standards Commission Executive Committee, or following review by the Executive Committee at the request of the deputy attorney general assigned to the Department of Education. ()

16. Minor. Any individual who is under eighteen (18) years of age. ()

17. Not-Sufficient Grounds. A determination by the Executive Committee that there is not-sufficient evidence to take action against an educator's certificate. ()

18. Principles. Guiding behaviors that reflect what is expected of professional educators in the state of Idaho while performing duties as educators in both the private and public sectors. ()

19. Reprimand. A written letter admonishing the Certificate holder for his conduct. The reprimand cautions that further unethical conduct may lead to consideration of a more severe action against the holder's Certificate. ()

20. Respondent. The legal term for the professional educator who is under investigation for a purported violation of the Code of Ethics for Idaho Professional Educators. ()

21. Revocation. The invalidation of any Certificate held by the educator. ()

22. Stipulated Agreement. A written agreement between the respondent and the Professional Standards Commission to resolve matters arising from an allegation of unethical conduct following a complaint or an investigation. The stipulated agreement is binding to both parties and is enforceable under its own terms, or by subsequent action by the Professional Standards Commission. ()

23. Student. Any individual enrolled in any Idaho public or private school from preschool through grade 12. ()

24. Sufficient Grounds. A determination by the Executive Committee that sufficient evidence exists to issue an Administrative Complaint. ()

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0304

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 adoption. 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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1201, 33-1203, and 33-1204, 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.

Allows for renewal of alternate authorization for candidates who are highly and uniquely qualified in a subject area to teach in a district with an identified need for teachers in that area. Removes the requirement that candidates must first be identified for employment by an Idaho School district and remain employed by the district while in the alternative route preparation program. Adds a requirement that preparation of the candidate must including mentoring services and a minimum of 1 classroom observation per month until certified.

The proposed rules have been amended in response to comment and to make clarifications and clerical corrections.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 87 through 92.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Karen Gustafson at 334-2270.

DATED this 14th day of November 2003.

Karen Gustafson
State Board of Education
650 W. State St.
PO Box 83720
Boise, ID 83720-0037
Phone: 208-334-2270
Fax: 208-334-2632

**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 03-10, October 1, 2003, pages 87 through 92.

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0303

SECTIONS 044, 045, and 046 (Entire Sections)

044. ALTERNATIVE AUTHORIZATION -- CONTENT SPECIALIST (EFFECTIVE JULY 1, 2006).

The purpose of this alternative authorization is to offer an expedited route to certification for individuals who are highly and uniquely qualified in a subject area to teach in a district with an identified need for teachers in that area. Alternative authorization in this area is valid for three (3) years and is not renewable. ()

01. Initial Qualifications. ()

a. Prior to application, a candidate must hold a Bachelor's degree. ()

b. The candidate shall meet enrollment qualifications of the alternative route preparation program. ()

02. Alternative Route Preparation Program -- College/University Preparation. ()

a. A consortium comprised of a designee from the college/university to be attended, and a representative from the school district, and the candidate shall determine preparation needed to meet the Idaho Standards for Initial Certification of Professional School Personnel. This preparation must include mentoring and a minimum of one (1) classroom observation per month until certified. ()

b. Prior to entering the classroom, the candidate completes eight (8) to sixteen (16) weeks of accelerated study in education pedagogy. ()

c. Candidate will work toward completion of the alternative route preparation program through a participating college/university, and the employing school district. A teacher must attend, participate in, and successfully complete an individualized alternative route preparation program as one (1) of the conditions to receive a recommendation for full certification. ()

d. The participating college/university shall provide procedures to assess and credit equivalent knowledge, dispositions and relevant life/work experiences. ()

e. Prior to entering the classroom, the candidate shall meet or exceed the state qualifying score on

appropriate state-approved content, pedagogy, or performance assessment. ()

045. (RESERVED).

046. PARA-EDUCATOR TO TEACHER (EFFECTIVE JULY 1, 2006).

The purpose of this alternative route to certification is to encourage qualified para-educators employed in Idaho classrooms to become certificated teachers. The alternative route preparation program must be completed within five (5) calendar years from the date of admission to the program. ()

01. Initial Qualifications. Prior to application: the candidate must hold an AA/AAS degree, meet state para-educator standards, and be employed as a para-educator. Districts shall identify potential candidate with appropriate dispositions for teaching, and continue to employ candidate as para-educators. District/school provides orientation for candidate as deemed appropriate. ()

02. Alternative Route Preparation Program-College University Preparation. ()

a. Candidate will work toward completion of the alternative route preparation program through a participating college/university, and the employing school district. A candidate must attend, participate in, and successfully complete an individualized alternative route preparation program as one (1) of the conditions to receive a recommendation for full certification. ()

b. The participating college/university shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. ()

c. Candidate shall complete all requirements for certification as provided herein. ()

047. -- 049. (RESERVED).

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0301

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 adoption. 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 33-105(1) and 33-107(3), 33-116, 33-118, and 33-1612, Idaho Code and Article IX, Section 2 of the Idaho Constitution.

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.

Clarifies when and what measures local school boards can use as an alternate measure for the graduation requirement. Outlines a phased in approach for a graduation requirement that would allow some exemptions in 2006, fewer exemptions in 2007 and full implementation in 2008. Clarifies that proficiency on the ISAT does not take effect until January 1, 2006. Outlines when adaptations and accommodations can be used. Changes the name of the Idaho Standard Achievement Test (ISAT) to the Idaho Standards Achievement Test in order to give the flexibility to include required subject tests as necessary as part of a comprehensive ISAT series. Removes the requirement that the ISAT include both a selected response section and a constructed response section. Clarifies definition of "full academic year" to allow for more consistent application across all Idaho schools and districts. Changes the requirement that small subgroups of students less than 10 be identified and reported in order to protect the privacy of students who are members of a small subgroup who would be identified as a result of such report.

The proposed rules have been amended in response to comment and to make clarifications and clerical corrections.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 93 through 103.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact Carissa Miller at 334-2270.

DATED this 17th day of November, 2003.

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State Board of Education
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IDAPA 08, TITLE 02, CHAPTER 03

RULES GOVERNING THOROUGHNESS

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 03-10, October 1, 2003, pages 93 through 103.

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0203-0301

SUBSECTION 105.03 (Partial Section)

105. GRADUATION FROM HIGH SCHOOL.

Graduation from an Idaho high school requires that: (4-1-97)

03. Proficiency (Effective January 1, 2006). All students must achieve a proficient or advanced score on the High School Idaho Standards Achievement Test (ISAT) in order to graduate. A student who does not attain at least a proficient score prior to graduation may appeal to the local school board, and, at the discretion of the local school board, may be given an opportunity to demonstrate proficiency of the achievement standards through some other locally established mechanism. All locally established mechanisms used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. ()

- a. Before appealing to the local school board for an alternate measure, the student must be:* ()
- i. Enrolled in a special education program and have an Individual Education Plan (IEP), or* ()
- ii. Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less, or* ()
- iii. Enrolled in the fall semester of the senior year.* ()
- b. The measure must be aligned at a minimum to tenth grade state content standards;* ()
- c. The measure must be aligned to the state content standards for the subject matter in question;* ()
- d. The measure must be valid and reliable; and* ()

e. Ninety percent (90%) of the criteria of the measure, or combination of measures, must be based on academic proficiency and performance. ()

SUBSECTION 107.06 (Partial Section)

107. HIGH SCHOOL GRADUATION STANDARDS (EFFECTIVE JULY 1, 2000).

The State minimum graduation requirement for all Idaho public high schools is forty-two (42) semester credits and a proficient or advanced score on the ISAT (effective January 1, 2006). The core of instruction required by the State Board of Education is twenty-five (25) semester credits. Local school districts may establish graduation requirements beyond the state minimum. The local school district has the responsibility to provide education opportunities that meet the needs of students in both academic and vocational areas. It is the intent of the State Board of Education to give local school districts the flexibility to provide rigorous and challenging curriculum that is consistent with the needs of students and the desire of their local patrons. (3-15-02)()

06. Assessment. A proficient or advanced score on the ISAT. The requirement will be phased in providing the following exemptions for the classes of 2006 and 2007. ()

a. Class of 2006. ()

i. The student took the ISAT and was within six (6) Rasch Units (RIT points) of proficiency; ()

ii. The student has a score of seventeen (17) on the ACT or two hundred (200) on the SAT in English and a score of nineteen (19) on the ACT or four hundred sixty (460) on the SAT in Math; ()

iii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; ()

iv. The student is considered an LEP student through a score determined on the state language proficiency test and has been in an LEP program for three (3) academic years or less; ()

v. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or ()

vi. The student may appeal for another measure approved by the local school board as outlined in Subsection 105.03. ()

b. Class of 2007. ()

i. The student took the ISAT and was within three (3) RIT points of proficiency; ()

ii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; ()

iii. The student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; ()

iv. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or ()

v. The student may appeal for another measure approved by the local school board as outlined in Subsection 105.03. ()

- c. Class of 2008 and Subsequent Classes. ()*
- i. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or ()*
- ii. The student may appeal for another measure approved by the local school board as outlined in Subsection 105.03. ()*

SUBSECTIONS 111.03, 111.04, and 111.06 (Partial Section)

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

03. Content. The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the Direct Writing Assessment (DWA), the Direct Mathematics Assessment (DMA), the National Assessment of Educational Progress (NAEP), and the Idaho Standards Achievement Tests (ISAT). (5-3-03)()

04. Testing Population. All students in Idaho public schools, grades kindergarten through ~~twelve~~ ten (K-120), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. All students who are eligible for special education shall participate in the statewide assessment program. Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. ~~English Language Learners (ELL) Limited English Proficient (LEP) students as defined in Subsection 112.03.d.iv. who have been in an English speaking school for less than one (1) year and score a 1 or 2 on the Pre-LAS or LAS, or a 1 or 2 on the Woodcock-Munoz, or an A or B on IPT, or limited or intermediate on the Macualitas may be excluded from testing. If the student does not have a local language score they are not excluded from testing~~ receive a score in the low range on the State Board of Education approved language acquisition proficiency test and have an Education Learning Plan (ELP) shall be given the ISAT with accommodations or adaptations for three (3) consecutive years. A further extension of two (2) consecutive years may be granted by the local district or local education agency provided the language proficiency test score is still in the low range. LEP students who do not have an ELP or a language acquisition score will be given the regular ISAT without accommodations or adaptations. (5-3-03)()

06. Comprehensive Assessment Program. The State approved comprehensive assessment program is outlined in Subsections 111.07.a. through 111.07.m. Each assessment will be comprehensive of and aligned to the Idaho State Achievement Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in ~~social studies, science, health and humanities~~ those standards not assessed by the state assessment program. (5-3-03)()

- a.** Kindergarten - Idaho Reading Indicator. (3-15-02)
- b.** Grade 1 - Idaho Reading Indicator. (3-15-02)
- c.** Grade 2 - Idaho Reading Indicator, Grade 2 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()
- d.** Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()
- e.** Grade 4 - Direct Math Assessment, National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()

- f.** Grade 5 - Direct Writing Assessment, Grade 5 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()
- g.** Grade 6 - Direct Math Assessment, Grade 6 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()
- h.** Grade 7 - Direct Writing Assessment, Grade 7 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()
- i.** Grade 8 - Direct Math Assessment, National Assessment of Educational Progress, Grade 8 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()
- j.** Grade 9 - Direct Writing Assessment, Grade 9 Idaho Standards Achievement Tests ~~covering Language Arts/Communication and Math Standards.~~ (5-3-03)()
- k.** Grade 10 - High School Idaho Standards Achievement Tests ~~covering Language Arts/Communications and Math Standards*.~~ (5-3-03)()

SECTION 112 (Entire Section)

112. ACCOUNTABILITY.

The provisions in this section apply for the purposes of meeting the “No Child Left Behind” Act and the state of Idaho accountability requirements. ()

- 01. Student Achievement Levels.** There are four (4) levels of student achievement for the ISAT. ()
- a. Advanced: Exceeds Standards.** The student demonstrates thorough knowledge and mastery of skills that allows him/her to function independently above his current educational level. ()
- i.** The student demonstrates a comprehensive understanding of all relevant information. ()
- ii.** The student demonstrates comprehension and understanding of knowledge and skills above his/her grade level. ()
- iii.** The student can perform skills or processes independently without significant errors. ()
- b. Proficient: Meets Standards.** The student demonstrates mastery of knowledge and skills that allow him/her to function independently on all major concepts and skills at his/her educational level. ()
- i.** The student demonstrates a comprehensive understanding of all information relevant to the topic, at level. ()
- ii.** The student can perform skills or processes independently without significant errors. ()
- c. Basic: Below Standards.** The student demonstrates basic knowledge and skills usage but cannot operate independently on concepts and skills at his/her educational level. Requires remediation and assistance to complete tasks without significant errors. ()
- i.** The student has an incomplete knowledge of the topic or misconceptions about some information. ()
- ii.** The student requires assistance and coaching to complete tasks without errors. ()
- d. Below Basic: Critically Below Standards.** The student demonstrates significant lack of skills and knowledge and is unable to complete basic skills or knowledge sets without significant remediation. ()

i. The student has critical deficiencies of relevant knowledge of topic or misconceptions about some information. ()

ii. The student cannot complete any skill set without significant assistance and coaching. ()

02. Adequate Yearly Progress (AYP). ()

a. Proficiency is defined as the number of students scoring proficient or advanced on the spring on-grade level ISAT. ()

b. The State Department of Education will make AYP determinations for schools and districts each year. Results will be given to the districts no later than one (1) month prior to the first day of school. ()

c. The baseline for AYP will be set by the Board and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. ()

03. Adequate Yearly Progress (AYP) Definitions. For purposes of calculating and reporting adequate yearly progress, the following definitions shall be applied. ()

a. Full Academic Year (continuous enrollment). ()

i. A student who is enrolled continuously in the same public school from the end of the first eight (8) weeks of the school year through the end of the state approved spring testing administration period will be included in the calculation to determine if the school achieved AYP. A student is continuously enrolled if he/she has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. Students who are expelled but return to another school in the same district are considered continuously enrolled to determine the district AYP. ()

ii. A student who is enrolled continuously in the school district from the first eight (8) weeks of the school year through the end of the state approved spring testing administration period will be included when determining if the school district has achieved AYP. ()

iii. A student who is enrolled continuously in a public school within Idaho from the end of the first eight (8) weeks of the school year through the end of the state approved spring testing administration period will be included when determining if the state has achieved AYP. ()

b. Participation Rate. ()

i. Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of students in designated subgroups automatically identifies the school as not having achieved AYP. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. ()

ii. For groups of ten (10) or more students, absences for the state assessment may not exceed five percent (5%) of the current enrollment or two (2) students, whichever is greater. Groups of less than ten (10) students will not have a participation determination. ()

c. Schools. ()

i. An elementary school includes a grade configuration of grades Kindergarten (K) through six (6) inclusive, or any combination thereof. ()

ii. A middle school is a school that does not meet the definition of an elementary school and contains grade 8 but does not contain grade twelve (12). ()

iii. A high school is any school that contains grade twelve (12). ()

iv. The accountability of public schools without grades assessed by this system (i.e., K-2 schools) will be based on the third grade test scores of the students who previously attended that feeder school. ()

d. Subgroups. Scores on the ISAT must be disaggregated and reported by the following subgroups: ()

i. Race/Ethnicity - Black/African American, Asian, Native Hawaiian/Pacific Islander, White, Hispanic/Latino Ethnicity, American Indian/Alaska Native. ()

ii. Economically disadvantaged - identified through the free and reduced lunch program. ()

iii. Students with disabilities - individuals who are eligible to receive special education services through the Individuals with Disabilities Education Act (IDEA). ()

iv. Limited English Proficient - individuals whose native language is a language other than English; individuals who come from environments where a language other than English is dominant; individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. ()

e. Graduation Rate. The State Board of Education will establish a target for graduation. All high schools must maintain or make progress toward the target each year. The graduation rate will be disaggregated by the subpopulations listed in Subsection 112.03.d. in the event the "safe harbor" is invoked by the school/district. By 2014, the schools/districts must meet the target. ()

f. Additional Academic Indicator. The State Board of Education will establish a target for an additional academic indicator. All elementary and middle schools must maintain or make progress toward the additional academic indicator target each year. The additional academic indicator target will be disaggregated by the subpopulations listed in Subsection 112.03.d. in the event the "safe harbor" is invoked by the school/district. By 2014, the schools/districts must meet the target. ()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-0301

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-103, 36-104(b), and 36-412, 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.

Requires a parent or designated adult to attend the live firing portion of hunter education with the student; defines the term "accompany" to mean within normal conversational distance; corrects an obsolete reference to the course fee; and adds required sections to the chapter.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 137 and 138.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25, Boise, ID 83707
Telephone: 208-334-2715 / FAX: 208-334-2114

IDAPA 13, TITLE 01, CHAPTER 02

RULES GOVERNING PUBLIC SAFETY

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 03-10, October 1, 2003, pages 137 and 138.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0301

NOTICE OF RULEMAKING - PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-103, 36-104(b), 36-408(5), 36-409A, and 36-1101(b)(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 complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 139 through 148.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

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Deputy Attorney General
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IDAPA 13, TITLE 01, CHAPTER 04

RULES GOVERNING LICENSING

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 03-10, October 1, 2003, pages 139 through 148.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0301

NOTICE OF RULEMAKING - PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103 and 36-104(b), 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 October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 149 through 156.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

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IDAPA 13, TITLE 01, CHAPTER 08

RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-10, October 1, 2003, pages 149 through 156.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.12 - RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO

DOCKET NO. 13-0112-0301

NOTICE OF RULEMAKING - PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104(b), and 36-804, 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 October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 162 through 166.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 12th day of November, 2003.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
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Telephone: 208-334-2715
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IDAPA 13, TITLE 01, CHAPTER 12

RULES GOVERNING COMMERCIAL FISHING IN THE STATE OF IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-10, October 1, 2003, pages 162 through 166.](#)

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 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

DOCKET NO. 15-0401-0301

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 67-5309, 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 proposed rules have been amended in response to public comment and to make clarification, typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

The most significant changes to the proposed rule are:

The definitions of "appointment, temporary," "due process" and "hiring list" have been modified.

The definition of "organizational unit" has been removed and replaced with a definition of "layoff unit".

A definition of "veteran" has been added and rules 020, 093 and 102 regarding veteran's preference have been further clarified.

Stronger emphasis on Hay system in compensation sections 070 and 075.01.b.

Section 071 is not being republished but has reverted back to the original codified text.

Limited service is further clarified in rules 101 and 124.04.

Proposed rule 103 has changed and reemployment eligibility register status will remain at twelve months.

Rules 001, 119, 125.08, 203, 243, 244, 250.02.a, and 273.03 have been further clarified.

Reduction in force rules 140-147 have changed. For example, the retention point calculation has been streamlined to more closely resemble the current process and the rules on performance evaluations have been further clarified.

Clarifications have been added to the promotional probation rules 153.

Rule 241.02.a. has been deleted.

Only the sections that have changes are printed in this bulletin. Section 071 is not being republished but has reverted back to the original codified text. The original text of the proposed rules was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 177 through 222.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Daniel Steckel at 429-5507.

DATED this 20th day of November, 2003.

Ann Heilman
Administrator
Division of Human Resources
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IDAPA 15, TITLE 04, CHAPTER 01

RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

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 03-10, October 1, 2003, pages 177 through 222.

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 15-0401-0301

SECTION 001 (Entire Section)

001. TITLE, ~~AND SCOPE, AND COMPLIANCE.~~

01. Title. These rules shall be cited as IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission". ~~(3-30-01)~~()

02. Scope. These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

03. Compliance. In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities shall ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code. ()

SECTION 010 (Partial Section)

010. DEFINITIONS.

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

068. Appointment, Original Or Initial. For purpose of assigning veteran's preference points, ~~The first appointment of time~~ a person is hired by a state agency ~~to any classified position in state service~~ full-time position after attaining eligible veteran's status. (Ref. Section 65-506(3), Idaho Code and Rule 102.04) ~~(4-5-85)~~()

~~144.~~ **Appointment, Temporary.** The appointment of a person to a nonclassified position which is not permanent in nature, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) department. Such appointments also may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (7-1-87)()

~~1922.~~ **Demotion.** The reduction of an employee from a position which the employee occupies in one (1) classification to a position in another classification with in a lower entrance salary pay grade. Demotion does not include returning an employee to a class in which the employee has permanent status for failure to complete the promotional probationary period. (Ref. Rule 150.04) (7-1-87)()

~~25.~~ **Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code). ()

~~33.~~ **Hiring List.** A hiring list is a subset of a register (Rule 010.61). A hiring list consists of the top ten (10) individuals, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. Candidates for reinstatement and/or transfer may be considered and are provided in addition to the top ten. ()

IN THE PROPOSED RULEMAKING, SUBSECTION 010.41 WAS NUMBERED 010.49

~~41.~~ **Layoff Unit (Organizational Unit).** A smaller geographic, programmatic, or other identified subdivision of a department determined by the appointing authority and approved by the administrator for the purpose of conducting a reduction in force (Rule 140). ()

~~3642.~~ **Leave Of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)

~~3743.~~ **Leave Of Absence Without Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)

~~44.~~ **Light Or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. ()

~~3845.~~ **Merit Increase.** The advancement of an employee's compensation in accordance with Section 67-5309C(b), Idaho Code. (7-1-87)

~~3946.~~ **Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (7-1-93)()

~~407.~~ **New Classification.** A classification that is not essentially described by any existing job classification. (7-1-94)()

~~418.~~ **Occasional Or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

~~429.~~ **On-Call Time.** Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the department where the employee may be reached if needed to work, and the employee can

use the time effectively for personal purposes. (3-30-01)

~~71.~~ 71. Veteran. Rule 020 defines veteran for the purpose of selection, hiring, and retention preference. ()

~~6372.~~ Workweek. A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (12-10-90)

SECTION 020 (Entire Section)

020. VETERANS PREFERENCE.

Preference must be given to qualified veterans who are residents of Idaho in all employment actions including hiring, transfer, promotion, and retention except for confidential secretarial positions. (3-30-01)

01. Veteran Defined (For Preference Purposes). Any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States Department of Veterans Affairs for the purpose of awarding federal veterans benefits and who has been discharged from service under honorable conditions. (Ref. Sections 65-509 and 65-510, Idaho Code) (3-30-01)

02. War Veteran (War Era) And Disabled Veteran Defined (For Preference Points On Competitive Exam). ~~War~~ Veterans and disabled veterans who are residents of the state of Idaho, and their widows or spouses, when qualified under state law shall have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Rule 102. (Ref. Rule 093.03, and Sections 65-502, 506, 507, and 67-5309(f), Idaho Code) (~~3-30-01~~)()

03. Promotion/Transfer Consideration. Qualified veterans shall be given additional consideration in promotion and transfer decisions. When candidates are considered to be equal based on valid job related factors, veterans shall be preferred. (Ref. Sections 65-502, 65-504, ~~65-509~~, and 67-5309, Idaho Code) (~~3-30-01~~)()

04. Retention. War veterans (War Era) (as defined in Chapter 5, Title 65, Idaho Code) shall receive the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule 140 and Section 65-503, Idaho Code) (~~3-30-01~~)()

SECTION 025 (Entire Section)

~~0265.~~ NEPOTISM.

No employee shall work under the immediate supervision or management chain-of-command of a ~~supervisor who is~~ a spouse, child, parent, brother, sister or the same relation by marriage. Similar relationships such as significant others, may also create a conflict of interest and should be addressed by agency conflict of interest policy. (Ref. Section 18-1359(e), Idaho Code) (~~8-1-81~~)()

SECTION 050 (Entire Section)

050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.

Nothing in these rules shall prohibit the use of independent contractors or consultants who are paid on a fee basis for legal, medical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state department. (7-1-94)

01. No Fee Basis. No position in the state classified service shall be filled by a consultant or independent contractor on a fee basis. (8-1-81)

02. Limited Use Only. Individuals employed through contracts with temporary services or

professional staffing agencies shall be utilized only for short-term situations. (3-30-01)

03. Conflict Of Interest/Nepotism. Agency policies regarding conflict of interest/nepotism *should address the award of work to consultants and contractors. See Rule 024 and 025. Also Ref. Section 18-1359, Idaho Code.* ()

04. Not To Be Treated As Employees. Independent contractors, their staff or consultants shall not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. ()

SECTION 066 (Entire Section)

066. ABOLISHMENT OF POSITIONS.

An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147. (7-1-87)

SECTION 070 (Entire Section)

070. COMPENSATION OF EMPLOYEES.

01. The Hay System. The Division of Human Resources will use the Hay method of point factoring to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code) ()

012. Conduct Of Salary Surveys. The Division of Human Resources shall conduct or approve salary surveys, to determine salary ranges that represent ~~competitive~~ labor market average rates for ~~all~~ Hay point factored positions in ~~the~~ classified service. (7-1-94)()

023. Relevant Labor Markets ~~For Classifications Up To Two Hundred Seventy Points.~~ ~~For classifications up to two hundred seventy (270) points, the comparator market shall consist of the Idaho in state market, representing private and public employers in the state. Labor markets used for wage comparison shall be based on the normal recruiting market for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination.~~ (7-1-94)()

a. When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. ()

b. For classifications with a regional recruiting area, the comparator market will be from public and private employers from the neighboring states and Idaho. For those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. ()

c. Recruitment and retention issues will be used to determine the need for additional special market surveys. ()

03. Relevant Labor Markets ~~For Classifications From Two Hundred Seventy One To Five Hundred Fifty Points.~~ ~~For classifications from two hundred seventy one (271) to five hundred fifty (550) points, the comparator market shall be the Idaho in state market, representing private and public employers, and a group of nine (9) Western State governments, consisting of Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.~~ (7-1-94)

04. Relevant Labor Markets ~~For Classifications Above Five Hundred Fifty Points.~~ ~~For classifications above five hundred fifty (550) points, the comparator market is the nine (9) Western State governments identified in Rule 070.03, and other relevant markets.~~ (3-30-01)

054. Salary Schedule. The administrator shall adopt the salary ranges for the pay grades in Section 67-5309C, Idaho Code, ~~which normally represents eighty five percent (85%) to one hundred twenty five percent (125%) of the payline policy formulas in Section 67-5309B, Idaho Code;~~ in a public meeting after notice, and a current salary schedule shall be ~~provided to~~ made available to the public and all appointing authorities. ~~(3-30-01)(____)~~

065. Compensation Plan. Significant changes to components of the compensation plan shall be presented in a public meeting after notice. (3-30-01)

SECTION 071 (Entire Section Reverted Back To Original Text)

071. COMPENSATION PLAN REVIEWS.

01. Review OF Compensation Schedule. The Division of Human Resources in cooperation with the various appointing authorities shall conduct reviews of the compensation plan. (3-30-01)

02. Affirmation Of Factoring. In the review of classifications, the factoring of a class may be affirmed if there has been no significant change in the duties of the classification and the factoring appears to be correct. (7-1-93)

SUBSECTION 072.06.a. (Partial Section)

072. OPERATION OF COMPENSATION PLAN.

06. Salary Upon Reinstatement. ~~Unless related to reemployment after a lay off, the salary of a reinstated employee (Rule 1254) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges.~~ ~~(7-10-88)(____)~~

~~**a.** Except as otherwise provided in the following rule, the salary of a reinstated employee (Rule 125) is negotiable between the employee and appointing authority in the current pay grade for the class in which the employee has reinstatement privileges.~~ ~~(3-30-01)~~

SUBSECTIONS 073.03.c., 073.03.d., and 073.06.g. (Partial Section)

073. CALCULATION OF PAY.

03. Holiday Pay Calculation. (7-1-87)

c. A part-time employee who has a regular work schedule shall be paid for a holiday ~~in the same proportion to ratio as~~ eight (8) hours ~~that the hours the employee normally works in is to a forty (40) hour work week bear to forty (40),~~ which for calculation purposes converts to two tenths (.20) x hours normally worked; ~~or 2) to the extent the employee would have worked had the holiday been a regular workday. The use of method 1) or 2) is discretionary with the appointing authority.~~ ~~(7-1-87)(____)~~

d. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, ~~an appointing authority may substitute the following method for 1) above:~~ the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs ~~bear relate~~ relate to forty (40). ~~(4-5-85)(____)~~

06. Department Salary Administration Policies. Each department shall adopt and file with the administrator current salary administration policies for the following actions to insure fairness and equity for all employees within that department: (3-30-01)

- g. On-call time (Rule 010.409). (4-5-85)()

SUBSECTION 075.01 (Partial Section)

075. SHIFT DIFFERENTIAL.

01. Eligibility. (12-10-90)

a. Shift differential compensation shall be paid if fifty percent (50%) or more of an employee's assigned hours in a workweek occur between 6 p.m. and 7 a.m. Leave hours taken shall be regarded as having been assigned during the same hours that the employee would have worked. (12-10-90)

b. Shift differential compensation shall be paid for all hours worked by an relief shift employee whose primary responsibility is to work in place of an absent employee and, whose assigned schedule varies from nights, days, and/or swing. (12-10-90)()

SECTION 085 (Entire Section)

085. CONTENT OF ANNOUNCEMENTS.

Each announcement ~~of an examination~~ shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of the examination, ~~relative weights of the various portions of the examination,~~ qualifying score, closing date, equal opportunity and veterans preference notice, and other pertinent information. (4-5-85)()

SUBSECTION 086.05 (Partial Section)

086. APPLICATIONS.

05. **Promotion Of Entrance Probationary Employee.** Any classified employee on entrance probation may file an application for a promotional opportunity ~~but may not be~~ and be placed on a register ~~but may not be appointed~~ until permanent status has been attained. (Ref. Rules 16059.01. and 17069.03.) (7-1-87)()

SUBSECTION 093.03 (Partial Section)

093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.

03. Veterans' Preference. (4-5-85)()

a. ~~War~~ Veterans² and disabled veterans² points, when applicable under state law, shall be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Veterans² preference points are only applicable when the applicant is a resident of Idaho. (Ref. Sections 65-5026 and 67-5309(f), Idaho Code) (4-5-85)()

b. ~~War~~ Veterans² and disabled veterans² preference points shall not be added to the raw score in order to achieve a passing score. (4-5-85)()

SUBSECTION 101.01 (Partial Section)

101. TYPES OF ELIGIBILITY REGISTERS.

There are four (4) kinds of eligibility registers: (4-5-85)

01. Layoff Reemployment Preference Registers. ~~Departmental layoff~~ Registers with reemployment preference shall for a given classification contain the names of classified employees of permanent ~~or probationary~~ status who have been laid off or ~~demoted because of shortage of work or funds, reorganization, or abolishment of a position. Ranking on such register is to be made in accordance with Rule 146, governing employee preference notified of a pending layoff~~ except limited service appointments. (See Rule 140 and 146). (4-5-85)()

SUBSECTIONS 102.03 and 102.04 (Partial Section)

102. PLACEMENT ON REGISTER.

03. Disabled Veterans' Preference. Eligible disabled veterans or surviving spouses entitled to ten (10) point preference shall be placed at the top of the open-competitive register above all other ~~non-preference~~ candidates in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03; ~~and~~ Section 65-60506, Idaho Code) (3-30-01)()

04. Veterans' Preference Points For Initial Appointment Only. The additional points added by reason of veterans' preference shall be used ~~for initial appointment~~ the first time a qualified veteran is hired by a state agency and not for the purpose of promotions ~~in classified service~~. (Ref. Section 65-506, Idaho Code) (3-30-01)()

SECTION 103 (Entire Section)

103. DURATION OF ELIGIBILITY REGISTERS.

01. Eligible Candidates Reemployment Preference Registers. Eligible candidates ~~on layoff registers~~ will remain thereon for twelve (12) months ~~from effective date of layoff~~. (Ref. Rules 101.01 ~~and 144~~) (3-30-01)()

02. Duration Other Registers. The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-30-01)()

SECTION 109 (Entire Section)

1402. CERTIFICATION AND SELECTION.

Whenever a vacancy in a classified position is to be filled by ~~the~~ a competitive ~~examination~~ recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' staff. Non-promotional ~~internal or external transfers or reinstatements do not require registers~~ certified by the Division of Human Resources. (4-5-85)()

SUBSECTION 111.02 (Partial Section)

1121. ADEQUATE REGISTERS.

A register with at least five (5) eligible candidates shall be adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may: (3-30-01)

02. Provisional Appointment. Make a provisional appointment pursuant to Rule 12019.05. (3-30-01)()

SUBSECTION 121.02 (Partial Section)

~~1221.~~ SEASONAL APPOINTMENT.

02. Employee Rights. Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 147, relating to reduction in force. ~~(12-10-90)~~()

SUBSECTION 124.04 (Partial Section)

~~1254.~~ REINSTATEMENTS.

04. Probationary Period. An appointing authority may negotiate for a probationary period as a condition of reinstatement except as provided in Rule 125.05 or when hiring off a layoff register where prohibited. ~~(3-30-01)~~()
(Ref. Rules 124.05 and 145.01).

SUBSECTIONS 125.04 and 125.08 (Partial Section)

~~1265.~~ TRANSFERS.

04. Limitation. Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 147. (7-1-87)

08. Involuntary Transfer. Notice and an opportunity to be heard must be given to any employee subject to an involuntary transfer. *(Ref. Rules 010.39 and 200.01.a.).* ()

SECTION 140 (Entire Section)

140. REDUCTION IN FORCE.

01. Conditions For Layoff. An appointing authority may lay off an employee whenever ~~it is~~ necessary ~~because of~~ due to: ()

a. ~~S~~Shortage of funds or work; ()

b. ~~R~~eorganization; ()

c. The end of a limited service appointment; ()

d. An employee's failure to complete interagency promotional probation when demotion options are not available; or ()

e. ~~The abolishment of one (1) or more positions (ref. Rule 066). A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff (ref. Rule 067). A reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions within the department or within the organizational unit approved pursuant to Rule 140.02.~~ ()

02. Layoff Decisions Must Not Be Based On. *Layoff decisions must not be based on race, color,*

national origin, gender, age, religion, disability, or political affiliation. Layoffs shall be accomplished in a systematic manner with equity for the rights of classified employees and shall not ~~abrogate~~ do away with an employee's right of ~~grievance~~ to problem solving, or appeal if the layoff is in fact a dismissal. (4-5-85)()

03. Assessment For Adverse Impact. In planning and conducting a reduction in force, the appointing authority shall consider the effect layoff units and positions to be abolished may have on the composition of the agency work force. If layoff units and/or exclusions are established, adverse impact of protected classes shall be assessed. The appointing authority shall administer the reduction in force consistent with state and federal laws, and rules and guidelines governing adverse impact. ()

04. Layoff By Position. Reduction in force shall be by classification of position ~~regardless of class of incumbent.~~ (4-5-85)()

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification, (Rule 11~~3~~2) for bona fide occupational qualifications, or appointed ~~under specific options or to a classification with~~ minimum qualification specialties ~~in a class.~~ Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (7-1-93)()

b. Reduction in force for employees in limited service appointments shall be limited to the program or function for which the appointments were made. An appointing authority may petition the administrator to exclude an individual or individuals from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale and exclusions must be approved in advance by the administrator. (4-5-85)()

c. Reduction in force for employees in seasonal appointments will be governed by workload fluctuations and has no applicability under this rule. (Ref. Rule 122). Limited-service appointments are defined by the project, program, or function for which the appointments were made. When a limited service project is completed or funding concluded, the limited service appointee is separated from state service as a layoff. However, limited service appointees have no reemployment preference and shall not displace other regular permanent or limited services staff via voluntary demotion in lieu of layoff. (12-10-90)()

025. Layoff Unit. Reduction in force shall be department-wide or by organizational unit ~~determined by the appointing authority provided the organizational unit designation designated~~ for layoff purposes, is made Layoff units (subdivisions of an agency for layoff purposes) are designated by the appointing authority and must be approved by the administrator before the effective date of the layoff. Organizational layoff unit designations must be renewed with a change in appointing authority or administrator. (4-5-85)()

06. Reduction Of Hours Worked. An involuntary reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the department or approved layoff unit for a limited period of time, i.e. furlough. ()

07. Downward Reclass. A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to one pay grade lower shall not constitute a layoff. (Ref Rule 067). More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary (Ref. Rule 190). ()

SECTIONS 141 through 149 (Entire Sections)

03141. CALCULATION OF RETENTION POINTS.

There shall be ~~competition among~~ an evaluation of all employees in the classification in the department or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and classified credited state service. Qualified war veterans are given preference through additional retention points. (Ref. Rule ~~24~~0141.05). The appointing authority will

determine a process for the impartial assessment of evaluations to assign points as follows:

Overall Performance Level Documented As:	Retention Points Earned Per Hour of Credited State Service
Superior or equivalent	.100
Very Good or equivalent	.075
Satisfactory or equivalent	.050
Needs Improvement or equivalent	.000
Unsatisfactory	.000

(7-1-87)()

01. No Performance Evaluation On File For A Twelve-Month Period. All credited state service for which there is no performance evaluation shall receive *seventy-five thousandths (.075)* points per hour. *A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation.* (4-5-85)()

a. Grace period. *Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation.* ()

b. Changes in prior periods not allowed. *Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution.* ()

02. Calculation Of Retention Points Since Last Evaluation. *The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points shall be calculated in conformance with Rule 141.03.* ()

03. Qualified War Veterans (War Era) Preference. *War veterans (War Era) as defined in Chapter 5, Title 65, Idaho Code, shall receive a bonus of three hundred twelve (312) preference by the addition of retention points which is equivalent to three (3) years of satisfactory service.* (4-5-85)()

04. Calculation Date Cutoff. *No points shall be calculated for the last three (3) months sixty (60) days prior to a reduction in force the effective date of the layoff.* (4-5-85)()

05. Audit Of Retention Points. *Each employee shall be entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties.* (7-1-87)

142. CREDITED STATE SERVICE.

Eligible credited state service for purposes of Rule 140 is defined as follows: (4-5-85)

01. Service Prior To State Personnel System. *All credited state service prior to the establishment of classified service, Chapter 53, Title 67, Idaho Code. (Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service)* (4-5-85)

02. Classified Service. *All classified credited state service since the establishment of classified*

service. (4-5-85)

03. Nonclassified Service. All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040. (7-1-87)

~~**04. Leave Of Absence From Classified Service.** All credited state service, in a leave of absence from classified service, that a classified employee serves in a nonclassified position. Limitations are contained in Rules 250.02.a. and 125.01.a. (7-1-87)~~

1423. PROCEDURE REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.

01. Identification Of Classifications. The appointing authority shall identify the classification(es) of positions to be ~~affected by layoff and the organizational unit if applicable under Rule 140.02~~ reduced or eliminated. (4-5-85)()

02. Calculation Of Retention Points. Retention points shall be calculated for all employees assigned to the classification of position including those serving in underfill positions (Ref. Rule 010.60 ~~or acting appointments (Ref. Rule 130). Employees on approved leave of absence without pay shall not be included (Ref. Rule 142.04).~~ Retention points need not be calculated where layoff involves a single-incumbent class. (7-1-87)()

03. Order Of Reduction In Force. The order of reduction in force shall be by type of appointment held by the employee in the affected classification(es) as follows: first to be laid off are provisional appointees, next the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees shall be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs shall be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention shall be determined in the following sequence: (Ref. Rule 150.02.c.) (3-30-01)()

a. The employee with the highest ~~overall average performance credit~~ (total retention points divided by total credited state service) for the past thirty-six (36) months. (4-5-85)()

b. Random selection. (4-5-85)

~~**04. Employee Returning From Leave Of Absence.** An employee returning from a leave of absence without pay to a class for which a layoff register exists will be laid off in accordance with these rules if there are employees on the layoff register for the class with more retention points (Ref. Rule 142.02). (7-1-87)~~

~~**054. Notification Of To Affected Employees.** Each employee affected shall be notified in writing of layoff and ~~reasons therefor~~ the rationale for the decision at least fifteen (15) calendar days prior to the effective date of the layoff. Notification shall include a copy of the departmental layoff procedure and a copy of the computation of retention points when required (Ref. Rule 142.02). (4-5-85)()~~

~~**065. Notification To Administrator.** The appointing authority shall give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and shall provide a list of persons affected by the layoff with their retention point calculations and shall indicate which employees will be laid off. (4-5-85)~~

144. PLACEMENT ON LAYOFF REGISTER WITH REEMPLOYMENT PREFERENCE.

~~An permanent employee who elects a voluntary demotion in lieu of layoff or an employee laid off from state service their job or who chooses a voluntary demotion in lieu of a layoff, under these rules shall be placed on a layoff their classification's register (Rule 101.01) in accordance with Rule 146 with reemployment preference in unranked order. Such placement will be for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines a total of three (3) separate job offers of reemployment without good cause, whichever comes first. (Rule 104.051.n.) An employee or former employee may request their name be removed at any time. (3-30-01)()~~

145. USE OF LAYOFF REGISTERS WITH REEMPLOYMENT PREFERENCE.

01. Offer Of Priority For Reemployment By Agency That Conducted The Layoff. ()

a. ~~An~~ The employee on a layoff register who has been laid off, or officially notified of a pending layoff date (Ref. Rule 143.05) shall be offered reemployment to a position in the classification from which laid off or layoff is pending, before any other person outside that agency may be promoted to, transferred to, reinstated, or appointed, including acting appointment, to such that classification by the an appointing authority enforcing the layoff of that department or agency. Appointing authorities in other departments are only required to offer an interview. (Ref. Rule 101.01) may reassign or transfer individuals who are in the same classification within their department but may not demote, promote, reclassify, or make acting appointments to that classification. If that department determines a need to fill that classification, the employee scheduled for lay off or who was laid off has first priority for that position. (Ref. Rule 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator. (3-30-01)()

b. When attempting to fill vacancies for a classification where a lay off occurred, the department or agency shall provide an opportunity to interview and shall make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Rule 150.02 and those that took a voluntary demotion in lieu of layoff. ()

c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. If the pay minimum has increased, see Rule 072.04. ()

02. ~~Optional Return To Layoff Register. When an employee is appointed from a layoff register, but finds the position unsatisfactory, they may resign, and request recertification to the layoff register for the remainder of their twelve (12) month eligibility period.~~ Consideration For Hire By Other Agencies. For promotional opportunities, internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However, individuals who have been laid off must be offered the opportunity to interview before other agencies consider candidates from statewide promotional or open-competitive recruitments. (3-30-01)()

03. Employment By Other Agency. Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. ()

04. Return To Register. If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he or she may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve (12) month period if otherwise eligible. ()

1476. INTERVIEWS FOR PROSPECTIVE LAYOFFS.

~~Any~~ Employees who has been notified or identified as likely to be affected by a layoff shall may request to be placed on a register for the classification from which the layoff will occur. (Ref. Rule 146.01.a.) Departments attempting to fill such vacancies All agencies shall offer an interview to these individuals when attempting to fill such vacancies through statewide promotion or open competitive recruitments. (Ref. Rule 145.02) (3-30-01)()

1487. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.

Within their layoff unit, an employee with permanent status may choose to accept a voluntary demotion rather than be laid off. Demotion options are limited to a classification, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted if it causes the layoff of an employee with greater retention points. ()

01. Eligibility. ()

a. Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialities. ()

b. Exclusion. Limited service appointees are not eligible to take any voluntary demotion that would result in the displacement of other employees. However, voluntary demotions to a vacant position are allowed with the approval of the appointing authority. ()

02. Acceptance. To accept a voluntary demotion rather than a layoff, the employee must notify the appointing authority in writing of their decision no later than three (3) working days after written notification of the layoff and opportunity to demote to a specific position. ()

148. -- 149. (RESERVED).

SECTIONS 152 and 153 (Entire Sections)

152. UNSATISFACTORY SERVICE SEPARATION DURING PROBATION.

01. Notification. ~~Should~~ If a probationary employee ~~fail to~~ does not serve satisfactorily, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division of Human Resources a performance evaluation indicating unsatisfactory performance. (Ref. Section 67-5309(j), Idaho Code and Rule 210.04) (7-1-87)()

02. During Entrance And Voluntary Probation. (3-30-01)

~~a-~~ An employee who ~~fails to~~ does not serve satisfactorily during the entrance or voluntary probation shall first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (3-30-01)()

~~03-~~ During Promotional Probation. If an employee on promotional probation fails to serve satisfactorily in the position to which he or she has been promoted, the employee shall be returned to a position in the class in which he or she holds permanent status or to a classification allocated to the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. As with all employees, a violation of Rule 190 may result in disciplinary action up to and including dismissal. (3-30-01)

153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.

01. Disciplinary Action. Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. ()

02. Intra-Agency. If an employee, on promotional probation, does not meet performance expectations, he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. ()

03. Inter-Agency. ()

a. The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. ()

b. If no position is available for the voluntary demotion option, the employee may be laid off and may: ()

i. Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or ()

ii. Request their name be placed on a register for the classification in the agency where they last held

permanent status. ()

c. When reinstatement occurs in the classification they promoted from, in the new agency or the prior agency, the employee's name is removed from reemployment required preference status. ()

SECTION 181 (Entire Section)

1821. NONDISCIPLINARY DEMOTION OPTIONAL.

An appointing authority may ~~make~~ allow a ~~nondisciplinary~~ voluntary demotion when: (4-5-85)

~~01. Voluntary.~~ Requested or accepted by an employee and approved by the appointing authority. (4-5-85)()

~~02. Displaced In Layoff.~~ An employee is displaced by another employee entitled to the position pursuant to this Rule Section. (7-1-87)

1853. -- 189. (RESERVED).

SECTION 203 (Partial Section)

203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.

When the Division of Human Resources receives a complaint from a federal agency alleging violation of employment laws, the administrator shall take prompt action to investigate. If the complaint is department specific, the appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. ()

SUBSECTIONS 210.03, 210.06, and 210.07 (Partial Section)

210. PERFORMANCE EVALUATIONS.

03. Purpose. The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established ~~work standards~~ expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All ~~ratings~~ performance evaluations shall be discussed with affected employee who shall be allowed opportunity to submit written comments regarding the ~~rating~~ evaluation contents. (4-5-85)()

06. Retention Of Evaluation. A copy of the performance evaluation shall be retained in departmental records, and a copy shall be furnished to the employee. ~~A copy~~ The performance rating shall be provided transmitted to the administrator; ~~with or without~~ Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents shall be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs. (7-1-94)()

07. Supervisors' Requirements. Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. ()

SUBSECTION 240.04 (Partial Section)

240. SICK LEAVE.

04. Medical, Dental, Or Optical Appointments Leave (MDA). Employees are allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family-member medical, dental or optical examination or treatment. Occasional appointments are those which are traditionally considered to be preventative, wellness related, or diagnostic. Ongoing treatment for physical or mental illness is not covered by MDA. Use of this benefit may be limited by the appointing authority on a case by case basis where frequency of use is impeding organizational effectiveness or misuse is suspected. If more than two (2) hours are needed for appointments additional time may be charged to sick leave. (Ref. Rule 250.13) ~~(3-30-01)~~(____)

SECTION 241 (Entire Section)

241. WORKERS COMPENSATION AND DISABILITY.

01. Use Of Leave In A Workers Compensation Claim. In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either: 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

02. Layoff After Six Months' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after six (6) months' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant. (Ref. Rule 101.01) The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (3-30-01)

~~*a. The disabled employee's retention points need not be calculated unless there are other employees on the departmental layoff register in the same class. The employee shall be entitled to reemployment preference pursuant to Rules 145 and 146 and reinstatement privileges provided under Rule 125 when released by his or her physician to return to work. (12-10-90)*~~

~~*bq.*~~ The ~~disabled~~ employee's name shall be certified to a ~~layoff register~~ reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (____)

~~*b.*~~ Conditional releases will be considered in accordance with the Americans with Disabilities Act. ~~(3-30-01)~~(____)

SUBSECTION 243.01 (Partial Section)

243. MATERNITY AND PATERNITY LEAVE.

01. Use Of Sick Leave. ~~Disabilities caused or contributed to by p~~Pregnancy, child birth or related medical conditions generally are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity and paternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. ~~(3-30-01)~~(____)

SECTION 244 (Entire Section)

244. SEPARATION UPON FAILURE TO RETURN TO WORK.

Except for those employees on authorized leave or placed on a ~~layoff~~ register ~~as~~ with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having resigned voluntarily separated.

Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 1254. Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. (3-30-01)()

SUBSECTIONS 250.02.a. and 250.02.b. (Partial Section)

250. SPECIAL LEAVES.

02. Leave Of Absence To Assume A Nonclassified Position. (7-1-93)

a. Approval. An appointing authority may approve a leave of absence without pay may be granted from classified service to a classified employee to assume a nonclassified position-in state service. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service or ninety (90) days past the service of the appointing authority, whichever comes first. (Ref. Rule 1254.01.a.) (7-1-87)()

b. Credited State Service. An employee returning from a on leave of absence granted to assume a nonclassified position shall be allowed classified continues to accrue credited state service for the leave in the class from which he or she was granted the leave of absence. Credit shall not exceed time limits established above. (4-5-85)()

SECTION 273 (Entire Section)

273. MINIMUM HUMAN RESOURCE POLICIES.

In order to ensure consistent minimum standards for employee rights and responsibilities under federal law, Idaho Code, and executive orders, each agency is required to have policies on the following, and take steps needed to inform employees of their rights and responsibilities under those same policies. If an appointing authority does not provide employees with the agency specific policy, a model policy issued by Division of Human Resources will apply. ()

- 01. Problem Solving.** (Ref. Rule 200) ()
- 02. Due Process.** (Ref. Rule 200.01.a.) ()
- 03. Compensation, Including Overtime and Compensatory Time.** (Ref. Rule 073.06) ()
- 04. Reasonable Accommodations/ADA.** (Ref. Rule 021) ()
- 05. Sexual Harassment And Other Illegal Discrimination.** (Ref. Rule 021) ()
- 06. Conflict Of Interest - Nepotism.** (Ref. Rule 024 and 025) ()
- 07. Drugfree Workplace.** (Ref. Rule 190.01.f.) ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective April 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-1017, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 21, 2004.

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

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

The purpose of these rule changes is to implement legislation that created a new designated Emergency Medical Technician-Intermediate (EMT-I) described in Section 56-1012, Idaho Code. Existing sections were revised to reflect the new designation and new sections and definitions were added to ensure that the EMT-I position meets training and qualification 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), Idaho Code and are necessary in order to protect the public health, safety, or welfare.

NEGOTIATED RULEMAKING: Informal negotiated rulemaking was conducted with the EMT-I Task Force.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Dia Gainor at (208) 334-4000.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 28, 2004.

DATED this 14th day of November, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0203-0401

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section ~~39-145~~ 56-1017, Idaho Code, to adopt rules concerning the administration of the Idaho Emergency Medical Services Act. ~~(3-30-01)~~(4-1-04)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The Board of Health and Welfare has adopted the Minimum Equipment Standards for Licensed EMS Services, 20004 edition, Version ~~34.0~~, as its standard on required EMS equipment and hereby incorporates the Standards by reference. Copies of the Equipment Standards may be obtained from the EMS Bureau, 590 W. Washington Street, Boise, Idaho 83702, P.O. Box 83720, Boise, Idaho 83720-0036. ~~(3-30-01)~~(4-1-04)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-1-04)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-1-04)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-1-04)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-1-04)T

05. Internet Websites. (4-1-04)T

a. The Department's internet website is found at "<http://www2.state.id.us/dhw/>". (4-1-04)T

b. The Emergency Medical Services Bureau's internet website is found at "<http://www.idahoems.org>". (4-1-04)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality Of Records. Any disclosure of confidential information used or disclosed in the course of the Department's business is subject to the restrictions in state or federal law, federal regulation and Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records". (4-1-04)T

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

who make public records requests.

(4-1-04)T

~~0057~~. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of these rules, the following terms and abbreviations will be used, as defined below: (7-1-80)

01. Advanced Emergency Medical Technician-Ambulance (AEMT-A). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of an ~~intermediate~~ advanced EMT training program, examination, subsequent required continuing training, and recertification. (~~7-1-97~~)(4-1-04)T

02. Advanced Life Support (ALS). The provision of medical care, medication administration and treatment with medical devices which correspond to the knowledge and skill objectives in the EMT-Paramedic curriculum currently approved by the State Health Officer in accordance with Subsection 201.04 of these rules and within the scope of practice defined in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05, by persons certified as EMT-Paramedics in accordance with these rules. (4-5-00)

03. Advertise. Communication of information to the public, institutions, or to any person concerned, by any oral, written, or graphic means including handbills, newspapers, television, radio, telephone directories and billboards. (4-5-00)

04. Agency. An applicant for designation or a licensed EMS service seeking designation. (4-5-00)

05. Ambulance. Any privately or publicly owned ground vehicle, nautical vessel, fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. (7-1-97)

06. Ambulance-Based Clinicians. Licensed Professional Nurses, Advanced Practice Professional Nurses, and Physician Assistants with current licenses from the Board of Nursing or the Board of Medicine, who are personnel provided by licensed EMS services. (4-5-00)

07. Board. The Idaho State Board of Health and Welfare. (12-31-91)

08. Certification. A credential issued to an individual by the EMS Bureau for a specified period of time indicating that minimum standards corresponding to one (1) or several levels of EMS proficiency have been met. (7-1-97)

09. Certified Personnel. Individuals who have completed training and successfully passed examinations for training and skills proficiency in one (1) or several levels of emergency medical services. (7-1-97)

10. Critical Care Transfer (CCT). The transportation of a patient with continuous care, monitoring, medication or procedures requiring knowledge or skills not contained within the EMT-Paramedic curriculum approved by the State Health Officer. Interventions provided by EMT-Paramedics are governed by the scope of practice defined in IDAPA 22.01.06, "Rules for EMS Personnel," ~~Subsection 011.05~~. (~~4-5-00~~)(4-1-04)T

11. Director. The Director of the Department of Health and Welfare or designated individual. (12-31-91)

12. Division. The Idaho Division of Health, Department of Health and Welfare. (11-19-76)

13. Emergency. A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (4-5-00)

- 14. Emergency Medical Services (EMS).** The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (11-19-76)
- 15. EMS Bureau.** The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (11-19-76)
- 16. EMS Standards Manual.** A manual published by the EMS Bureau detailing policy information including EMS education, training, certification, licensure, and data collection. (7-1-97)
- 17. Emergency Medical Technician-Ambulance (EMT-A).** A designation issued to an EMT-B by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of supervised in-field experience. (7-1-97)
- 18. Emergency Medical Technician-Basic (EMT-B).** An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a basic EMT training program, examination, subsequent required continuing training, and recertification. (7-1-97)
- 19. Emergency Medical Technician-Intermediate (EMT-I).** An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of an intermediate training program, examination, subsequent required continuing training, and recertification. (4-1-04)T
- ~~20.~~ Emergency Medical Technician-Paramedic (EMT-P).** An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a paramedic training program, examination, subsequent required continuing training, and recertification. (7-1-97)
- 201. First Responder.** An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a first responder training program, examination, subsequent required continuing training, and recertification. (7-1-97)
- ~~22.~~ Licensed EMS Services.** Ambulance services and non-transport services licensed by the EMS Bureau to function in Idaho. (7-1-97)
- 223. National Registry Of Emergency Medical Technicians (NREMT).** An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for certification. (7-1-97)
- 234. Non-Transport.** A vehicle design or organizational configuration which brings EMS personnel or equipment to a location, but does not move any sick or injured person from that location. (7-1-97)
- 245. Out-Of-Hospital.** Any setting outside of a hospital, including inter-facility transfers, in which the provision of EMS may take place. (4-5-00)
- 256. Physician.** A person licensed by the State Board of Medicine to practice medicine or surgery or osteopathic medicine or surgery in Idaho. (11-17-96)
- 267. Pre-Hospital.** Any setting (including standbys) outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. (4-5-00)
- ~~278.~~ State Health Officer.** The Administrator of the Division of Health. (11-19-76)
- 289. Transfer.** The transportation of a patient from one (1) medical care facility to another by ambulance. (4-5-00)
- 011. -- 099. (RESERVED).**

100. STATEWIDE EMS ADVISORY COMMITTEE.

The Director will appoint a Statewide EMS Advisory Committee to provide counsel to the Department in administering the EMS Act. The Committee members will have a normal tenure of three (3) years after which time they may be excused or reappointed. However, in order to afford continuity, initial appointments will be made to one-third (1/3) of the membership for two (2) years, one-third (1/3) for three (3) years, and one-third (1/3) of the membership for four (4) years. The Committee chairman will be selected by the State Health Officer. (7-1-97)

- 01. Committee Membership.** The Statewide EMS Advisory Committee will be constituted as follows: (7-1-80)
 - a.** One (1) representative recommended by the State Board of Medicine; and (4-8-94)
 - b.** One (1) representative recommended by the Idaho Chapter of ACEP; and (4-8-94)
 - c.** One (1) representative recommended by the Committee on Trauma of the Idaho Chapter of the American College of Surgeons; and (4-8-94)
 - d.** One (1) representative recommended by the State Board of Nursing; and (4-8-94)
 - e.** One (1) representative recommended by the Idaho Medical Association; and (4-8-94)
 - f.** One (1) representative recommended by the Idaho Hospital Association; and (4-8-94)
 - g.** One (1) representative of local government recommended by the Idaho Association of Counties; and (4-8-94)
 - and
 - h.** One (1) representative of a career third service EMS/Ambulance organization; and (4-8-94)
 - i.** One (1) representative of a volunteer third service EMS/Ambulance organization; and (4-8-94)
 - j.** One (1) representative of a third service non-transport EMS organization; and (4-8-94)
 - k.** One (1) representative of a fire department based EMS/Ambulance recommended by the Idaho Fire Chiefs Association; and (4-8-94)
 - l.** One (1) representative of a fire department based non-transport EMS organization; and (4-8-94)
 - m.** One (1) representative of an air medical EMS organization; and (7-1-97)
 - n.** One (1) Emergency Medical Technician-Basic who represents the interests of Idaho providers certified at that level; and (4-8-94)
 - o.** One (1) Advanced Emergency Medical Technician-Ambulance who represents the interests of Idaho providers certified at that level; and (7-1-97)
 - p.** One (1) Emergency Medical Technician-Intermediate who represents the interests of Idaho providers certified at that level; and (4-1-04)T
 - ~~pq.~~ One (1) Emergency Medical Technician-Paramedic who represents the interests of Idaho providers certified at that level; and (4-8-94)
 - ~~qr.~~ One (1) representative who is an administrative county EMS director; and (4-8-94)
 - ~~rs.~~ One (1) EMS instructor who represents the interests of Idaho EMS educators and evaluators; and (4-8-94)
 - ~~st.~~ One (1) consumer; and (4-5-00)

- 4u.** One (1) representative of a private EMS transport organization; and (4-5-00)
 - 4v.** One (1) pediatrician who represents the interests of children in the EMS system recommended by the Idaho Chapter of the American Academy of Pediatrics; and (3-30-01)
 - 4w.** One (1) board certified or equivalent pediatric emergency medicine physician. (3-30-01)
- 02. Responsibilities Of Committee.** The EMS Advisory Committee will meet at least annually or as needed for the purposes of: (7-1-80)
- a.** Reviewing policies and procedures for provision of emergency medical services and recommending same to the Division; (11-19-76)
 - b.** Reviewing EMS training curricula, training standards, and examination processes and recommending same to the Division; (4-8-94)
 - c.** Reviewing EMS candidate selection policy and candidate performance requirements and recommending to the Division certification of standards for EMS personnel; (7-1-97)
 - d.** Reviewing and making recommendations for disciplinary action regarding EMS personnel who have not complied with EMS policies; (11-19-76)
 - e.** Reviewing and making recommendations on the licensing of ambulance services in Idaho. (11-19-76)
 - f.** Reviewing and making recommendations on the licensing of non-transport services in Idaho. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

201. STANDARDS.

All initial training programs must be conducted in accordance with the following criteria: ~~(7-1-97)~~(4-1-04)T

01. Course Coordinator. Each EMS training program must have a designated course coordinator who ~~shall have~~ has overall responsibility for management of the course and specific duties, including: ~~(7-1-97)~~(4-1-04)T

- a.** Documentation of candidate qualifications, attendance, skill proficiency, and clinical sessions; (7-1-97)
- b.** Advance scheduling and prior orientation of all other instructors and guest lecturers to the knowledge and skills objectives of the session being taught; (7-1-97)
- c.** Coordination of access for candidates into health care facilities and licensed EMS services in accordance with the curriculum of the course; (7-1-97)
- d.** Acquisition of equipment for all skills objectives within the curriculum being taught. (7-1-97)

02. Instructor Qualifications. The course instructor(s) conducting EMS training courses must meet the appropriate qualifications established in Sections 225 through ~~229~~30 of these rules. ~~(7-1-97)~~(4-1-04)T

03. Physician Oversight. AEMT-A, EMT-I, and EMT-P training courses must be conducted under the direction of a physician. ~~(7-1-97)~~(4-1-04)T

04. Curriculum And Equipment. Training courses must use course curricula approved by the State Health Officer and have access to equipment related to all skills objectives within the curricula. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

206. CONSISTENCY WITH NATIONAL STANDARDS.

The EMS Bureau *shall* consider the National Standard Curriculum and the National EMS Education & Scope of Practice Blueprint Model as models for design or adaptation of EMS training program content and EMS certification levels. (7-1-97)(4-1-04)T

(BREAK IN CONTINUITY OF SECTIONS)

226. QUALIFICATIONS OF EMT-BASIC COURSE INSTRUCTORS.

EMT-Basic course instructors must be approved by the EMS Bureau, based on the following requirements: (7-1-97)

01. Application. Submission of an application to the EMS Bureau; (7-1-97)

02. Adult Instructional Methodology. Completion of ~~Division of Vocational Education/Idaho Emergency Services Training's sixteen (16) hour "EMS Instructor Training" course or equivalent;~~ one (1) or more courses approved by the EMS Bureau based on content that includes the following instructional methodologies: (7-1-97)(4-1-04)T

- a.** The adult learner; (4-1-04)T
- b.** Learning objectives; (4-1-04)T
- c.** Learning process; (4-1-04)T
- d.** Lesson plans; (4-1-04)T
- e.** Course materials; (4-1-04)T
- f.** Preparation; (4-1-04)T
- g.** Teaching aids; (4-1-04)T
- h.** Teaching methods; and (4-1-04)T
- i.** Evaluations. (4-1-04)T

03. EMS Instructor Orientation-To The Curriculum. Completion of the ~~Division of Vocational Education/Idaho Emergency Services Training's original twenty four (24) hour "EMT Basic Instructor Orientation" course; or completion of a twenty four (24) hour provider "EMT Basic Transitional Course" plus Division of Vocational Education/Idaho Emergency Services Training's instructor specific eight (8) hours "EMT Instructor Orientation" course;~~ EMS Bureau orientation program for EMS instructors or equivalent; and (7-1-97)(4-1-04)T

04. Certification. Certification at or above the level of curriculum being taught, for at least three (3) years. Licensed individuals and other health care providers must also be certified at the EMT level. (7-1-97)

227. PRIMARY OR LEAD EMT-BASIC INSTRUCTORS.

Primary or lead instructors *shall* must be approved as EMT-Basic Course Instructors, *shall* personally instruct at least seventy-five percent (75%) of the didactic training of the course, and *shall* instruct or oversee the skills training in the

curriculum.

(7-1-97)(4-1-04)T

(BREAK IN CONTINUITY OF SECTIONS)

230. EMT-INTERMEDIATE INSTRUCTORS.

All EMT-I primary or lead instructors must meet the following criteria: (4-1-04)T

01. Certification. One (1) of the following must be documented: (4-1-04)T

a. Three (3) or more years of certification at or above the EMT-I level; (4-1-04)T

b. Idaho licensure as a physician, licensed professional nurse or other mid-level health care provider, and current certification at any EMS provider level; (4-1-04)T

c. Employment as an instructor by a college or university and teaching an accredited paramedic program. (4-1-04)T

02. Adult Instructional Methodology. Completion of one (1) or more courses approved by the EMS Bureau based on content as listed in Subsection 226.02 of these rules. (4-1-04)T

03. EMS Instructor Orientation. Completion of an EMS Bureau orientation program for EMS instructors, or equivalent, within eighteen (18) months of the proposed course start date or instructor application submission. (4-1-04)T

04. Application. Submission of an application to the EMS Bureau documenting credentials, education or experience that correspond to the knowledge and skills objectives being taught. (4-1-04)T

05. Bureau Approval. Approval will be verified for every primary or lead EMT-Intermediate instructor listed on each EMT-Intermediate course application. (4-1-04)T

06. Primary Or Lead Instructors. Primary or lead instructors must personally instruct or monitor at least ninety percent (90%) of the didactic training of the course, and must instruct or oversee the skills training in the curriculum. (4-1-04)T

2301. -- 299. (RESERVED).

300. AMBULANCE SERVICE STANDARDS.

~~In order to~~To qualify for licensing as an ambulance service pursuant to under Section ~~39-144~~ 56-1016, Idaho Code, the applicant ~~shall~~ must demonstrate compliance with the following: (7-1-97)(4-1-04)T

01. Ambulances Vehicles. All ambulance vehicles must meet one (1) of the following conditions to be licensed: (7-1-97)(4-1-04)T

a. The vehicle meets or exceeds any federal, industry, or trade specifications or standards for ambulance vehicles as identified by the applicant. (7-1-97)

b. The vehicle has been uniquely configured or modified to meet specialized needs and has been inspected and approved by the EMS Bureau. (7-1-97)

02. Required Ambulance Equipment. Each ambulance must be equipped with the following: (7-1-97)

a. Medical care supplies and devices as specified in the Minimum Equipment Standards for Licensed EMS Services. Exceptions to the minimum equipment requirements may be granted by the EMS Bureau upon

inspection, when the circumstances and available alternatives assure that appropriate patient care will be provided for all foreseeable incidents. (7-1-97)

b. Mobile radio on 155.340 MHZ and 155.280 MHZ frequencies with encoding capabilities to allow access to the Idaho EMS radio communications system; and (11-19-76)

c. Safety equipment and personal protective supplies for certified personnel and other vehicle occupants as specified in the Minimum Equipment Standards, including materials to provide for body substance isolation and protection from exposure to communicable diseases ~~pursuant to~~ and pathogens under Section ~~39-145~~ 56-1017, Idaho Code. (7-1-97)(4-1-04)T

03. Ambulance Personnel. The ambulance service ~~shall~~ must demonstrate that a sufficient number of personnel are affiliated with the service to accomplish a twenty-four (24) hour a day, seven (7) day a week response capability in accordance with Section ~~39-144(3)~~ 56-1016, Idaho Code. The service ~~shall~~ must describe its anticipated staffing patterns per vehicle and shift on the application supplied by the EMS Bureau. The annual inspection by the EMS Bureau ~~shall~~ must include a review of the ambulance service personnel staffing configuration. (7-1-97)(4-1-04)T

04. Records To Be Maintained. The ambulance service must maintain records of each ambulance response and submit them to the EMS Bureau at least quarterly in a form approved by the EMS Bureau. These records must include at least the following information: (7-1-97)

- a.** Name of ambulance service; and (11-19-76)
- b.** Date of response; and (7-1-97)
- c.** Time call received; and (11-19-76)
- d.** Time en route to scene; and (7-1-97)
- e.** Time arrival at scene; and (11-19-76)
- f.** Time service departed scene; and (7-1-97)
- g.** Time arrival at hospital; and (11-19-76)
- h.** Location of incident; and (11-19-76)
- i.** Description of illness/injury; and (11-19-76)
- j.** Description of patient management; and (11-19-76)
- k.** Patient destination; and (11-19-76)
- l.** Ambulance unit identification; and (11-19-76)
- m.** Identification and certification level of each ambulance crew member on the response; and (7-1-97)
- n.** Response outcome. (7-1-97)

05. Communications. Ambulance service dispatch ~~shall~~ must be in accordance with Section ~~39-144~~ (4) 56-1016, Idaho Code. The application for licensure ~~shall~~ must describe the radio, telephonic, or other electronic means by which patient care instructions from an authorized medical source will be obtained. The annual inspection by the EMS Bureau ~~shall~~ will include a review of the ambulance service dispatch and communications configuration. (7-1-97)(4-1-04)T

06. Medical Control Plan. The ambulance service *shall must* describe the extent and type of supervision by a licensed physician that is available to certified personnel. The annual inspection by the EMS Bureau *shall will* include a review of the ambulance service medical control configuration. (7-1-97)(4-1-04)T

07. Medical Treatment Protocols. The ambulance service *shall must* submit a complete copy of the medical treatment protocols and written standing orders under which its certified personnel will function with the application for licensure. (7-1-97)(4-1-01)T

08. Training Facility Access. The applicant *shall must* describe the arrangements which will provide access to clinical and didactic training locations, in the initial application for service licensure. (7-1-97)(4-1-04)T

09. Geographic Coverage Description. Each application for initial licensure *shall must* contain a specific description of the Idaho jurisdiction(s) that the ambulance service will serve using known geopolitical boundaries or geographic coordinates. (7-1-97)(4-1-04)T

~~**10. Local Governmental Authorization.** The applicant for initial and subsequent ambulance licensure shall document compliance with all local ordinances and ambulance district requirements for every jurisdiction that will be served by the applicant. (7-1-97)~~

110. Required Application. The applicant *shall must* submit a completed application to the EMS Bureau to be considered for licensure. The most current standardized form *shall will* be available from the EMS Bureau. An additional application may be required prior to subsequent annual inspection by the EMS Bureau. (7-1-97)(4-1-04)T

121. Inspection. Representatives of the EMS Bureau are authorized to enter the applicant's facility or other location as designated by the applicant at reasonable times, for the purpose of inspecting the ambulance services' vehicle(s) and equipment, ambulance response records, and other necessary items to determine eligibility for licensing by the state of Idaho in relation to the minimum standards in Section ~~39-144~~ 56-1016, Idaho Code. (7-1-97)(4-1-04)T

~~**132. License.** Ambulance services must be licensed on an annual basis by the EMS Bureau. (7-1-97)~~

301. NON-TRANSPORT SERVICE STANDARDS.

In order to qualify for licensing as a non-transport service *pursuant to under* Section ~~39-144~~ 56-1016, Idaho Code, the applicant *shall must* demonstrate compliance with the following: (7-1-97)(4-1-04)T

01. Vehicles. All vehicles must meet one (1) of the following conditions to be licensed: (7-1-97)

a. The vehicle meets or exceeds standards for that type vehicle, including federal, industry, or trade specifications, as identified by the applicant and recognized and approved by the EMS Bureau. (7-1-97)

b. The vehicle has been uniquely configured or modified to meet specialized needs and has been inspected and approved by the EMS Bureau. (7-1-97)

02. Required Equipment For Non-Transport Services. Certified personnel *shall must* have access to required equipment. The equipment *shall must* be stored on a dedicated response vehicle, or in the possession of certified personnel. The application for licensure as a non-transport service *shall must* include a description of the following: (7-1-97)(4-1-04)T

a. Medical care supplies and devices as specified in the Minimum Equipment Standards for Licensed EMS Services. Exceptions to the minimum equipment requirements may be granted by the EMS Bureau upon inspection, when the circumstances and available alternatives assure that appropriate patient care will be provided for all foreseeable incidents. (7-1-97)

b. Mobile or portable radio(s) on 155.340 MHZ and 155.280 MHZ frequencies with encoding capabilities to allow access to the Idaho EMS radio communications system; and (7-1-97)

c. Safety equipment and personal protective supplies for certified personnel and other vehicle occupants as specified in the Minimum Equipment Standards for Licensed EMS Services, including materials to provide for body substance isolation and protection from exposure to communicable diseases ~~pursuant to~~ under Section ~~39-145~~ 56-1017, Idaho Code. ~~(7-1-97)(4-1-04)T~~

03. Non-Transport Service Personnel. The non-transport service ~~shall~~ must demonstrate that a sufficient number of certified personnel are affiliated with the service to accomplish a twenty-four (24) hour a day, seven (7) day a week response capability. Exceptions to this requirement may be granted by the EMS Bureau when strict compliance with the requirement would cause undue hardship on the community being served, or would result in abandonment of the service. The annual inspection by the EMS Bureau ~~shall~~ will include a review of the personnel staffing configuration. ~~(7-1-97)(4-1-04)T~~

04. Records To Be Maintained. The non-transport service must maintain records of each EMS response in a form approved by the EMS Bureau that include at least the following information: (7-1-97)

- a. Identification of non-transport service; and (7-1-97)
- b. Date of response; and (7-1-97)
- c. Time call received; and (7-1-97)
- d. Time en route to scene; and (7-1-97)
- e. Time arrival at scene; and (7-1-97)
- f. Time service departed scene; and (7-1-97)
- g. Location of incident; and (7-1-97)
- h. Description of illness/injury; and (7-1-97)
- i. Description of patient management; and (7-1-97)
- j. Patient destination; and (7-1-97)
- k. Identification of non-transport service personnel on response and certification; and (7-1-97)
- l. Response outcome. (7-1-97)

05. Communications. The application for licensure ~~shall~~ must describe the radio, telephonic, or other electronic means by which patient care instructions from an authorized medical source will be obtained. The annual inspection by the EMS Bureau ~~shall~~ will include a review of the non-transport service dispatch and communications configuration. ~~(7-1-97)(4-1-04)T~~

06. Medical Control Plan. The non-transport service ~~shall~~ must describe the extent and type of supervision by a licensed physician that is available to certified personnel. The annual inspection by the EMS Bureau ~~shall~~ will include a review of the non-transport service medical control configuration. ~~(7-1-97)(4-1-04)T~~

07. Medical Treatment Protocols. The non-transport service ~~shall~~ must submit a complete copy of the medical treatment protocols and written standing orders under which its certified personnel will function with the initial application for licensure. ~~(7-1-97)(4-1-04)T~~

08. Training Facility Access. The applicant ~~shall~~ must describe the arrangements which will provide access to clinical and didactic training locations in the initial application for service licensure. ~~(7-1-97)(4-1-04)T~~

09. Geographic Coverage Description. Each application for initial licensure ~~shall~~ must contain a specific description of the Idaho jurisdiction(s) that the non-transport service will serve using known geopolitical

boundaries or geographic coordinates.

(7-1-97)(4-1-04)T

~~10. Local Governmental Authorization. The applicant for initial and subsequent licensure shall document compliance with all local ordinances and ambulance district requirements for every jurisdiction that will be served by the applicant.~~ (7-1-97)

140. Required Application. The applicant ~~shall~~ **must** submit a completed application to the EMS Bureau to be considered for licensure. The most current standardized form ~~shall be~~ **is** available from the EMS Bureau. An additional application may be required prior to subsequent annual inspection by the EMS Bureau.

(7-1-97)(4-1-04)T

121. Inspection. Representatives of the Department are authorized to enter the applicant's facility or other location as designated by the applicant at reasonable times, for the purpose of inspecting the non-transport services' vehicle(s) and equipment, non-transport response records, and other necessary items to determine eligibility for licensing by the state of Idaho.

(7-1-97)

132. Non-Transport Service Minimum Standards Waiver. The controlling authority providing non-transport services may petition the EMS Bureau for waiver of the non-transport service standards of these rules, if compliance with the service standards would cause undue hardship on the community being served.

(7-1-97)

143. License. Non-transport services must be licensed on an annual basis by the EMS Bureau. (7-1-97)

302. -- 319. (RESERVED).

320. DESIGNATION OF CLINICAL CAPABILITY.

All ambulance and non-transport licenses issued by the EMS Bureau ~~shall~~ **must** indicate the clinical level of service which can be provided by the ambulance or non-transport service after verification of compliance with Section 300 or Section 301 of these rules. Agencies which provide certified personnel at the First Responder, EMT-B, or EMT-A level ~~shall~~ **will** be designated as ~~a~~ **Basic Life Support services**. Agencies which provide certified personnel at the AEMT-A or EMT-Intermediate level ~~shall~~ **will** be designated as ~~an~~ **Intermediate Life Support services**. Designation of services which function at or above the ALS level ~~shall~~ **will** be issued in accordance with Section 340 of these rules. Licensed EMS Services may function at one (1) or more ALS levels corresponding to the designation issued by the EMS Bureau as a result of the application and inspection process required in Sections 300 and 301 of these rules.

(4-5-00)(4-1-04)T

321. -- 3243. (RESERVED).

324. STANDARDS FOR AGENCIES UTILIZING EMT-INTERMEDIATE PERSONNEL.

An agency which has demonstrated compliance with Section 300 or Section 301 of these rules may qualify to utilize EMT-Intermediate personnel if the following criteria are met:

(4-1-04)T

01. Personnel. The agency must have one (1) or more EMT-Intermediates listed on the agency personnel roster. The agency is specifically prohibited from utilizing other licensed health care providers for pre-hospital and emergency responses to requests for EMS unless they are accompanied by or are cross-trained and certified as an EMS provider.

(4-1-04)T

a. EMT-Intermediate personnel must hold current certification issued by the EMS Bureau in accordance with Sections 501 and 510 of these rules.

(4-1-04)T

b. An agency may use Ambulance-Based Clinicians who function with an EMT-I or are cross-trained and certified as an EMT-I. The agency must verify that all Ambulance-Based Clinicians have successfully completed a formal training program of pre-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency must assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board.

(4-1-04)T

c. Personnel must initiate intermediate life support as authorized by the physician designated as the medical director of the agency, and other physicians providing on-line medical direction as specified in IDAPA

22.01.06. "Rules for EMS Personnel" (4-1-04)T

d. Personnel must initiate requests for on-line medical direction as dictated by the EMS agency's protocols. (4-1-04)T

02. Required Documentation. The affiliation status and ongoing proficiency maintenance of the certified personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. (4-1-04)T

a. The agency must submit a roster of all certified personnel and Ambulance-Based Clinicians with the initial and renewal application for licensure. (4-1-04)T

b. The agency must maintain documentation of proficiency assurance of all certified personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of certification. (4-1-04)T

03. Required Equipment. The agency vehicle(s) must be equipped with the minimum required equipment listed in the EMT-Intermediate Services section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. (4-1-04)T

325. PRE-HOSPITAL ADVANCED LIFE SUPPORT (ALS) STANDARDS.

Pre-hospital ALS designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities which are within the scope of practice established under IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05, for the purposes of responding to emergencies in any 911 service area, standby, or other area on an emergency basis. Designation ~~shall be~~ is for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 or Section 301 of these rules may qualify for Pre-hospital ALS designation if the following criteria are met: ~~(4-5-00)~~(4-1-04)T

01. Personnel. The agency must have a sufficient number of EMT-Paramedics to assure availability of such personnel corresponding to the anticipated call volume of the agency. The agency is specifically prohibited from utilizing other licensed health care providers for pre-hospital and emergency responses to requests for EMS unless they are accompanied by or cross-trained and certified as an EMT-Paramedic. (4-5-00)

a. EMT-Paramedic personnel must hold current certification issued by the EMS Bureau in accordance with Sections 501 and 510 of these rules. (4-5-00)

b. An agency may use Ambulance-Based Clinicians who function with an EMT-P or are cross-trained and certified as an EMT-P. The agency ~~shall~~ must verify that all Ambulance-Based Clinicians have successfully completed a formal training program of pre-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency shall assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. ~~(4-5-00)~~(4-1-04)T

c. Personnel ~~shall~~ must initiate advanced life support as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on-line medical direction as specified in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05. ~~(4-5-00)~~(4-1-04)T

02. Required Documentation. The employment status and ongoing proficiency maintenance of the certified personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. (4-5-00)

a. The agency must submit a roster of all certified personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. (4-5-00)

b. The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all certified personnel and Ambulance-Based Clinicians in accordance with the EMS

Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. (4-5-00)

03. Required Equipment. The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the *Paramedic Ambulance ALS* section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. ~~(4-5-00)~~(4-1-04)T

04. Administrative License Action. A pre-hospital ALS designation may be suspended or revoked in accordance with Section 515 of these rules. The agency is specifically prohibited from advertising as or responding to requests for critical care transfer service unless the agency also holds Critical Care Transfer Service designation in accordance with Section 335 of these rules. (4-5-00)

326. -- 329. (RESERVED).

330. ADVANCED LIFE SUPPORT (ALS) TRANSFER STANDARDS.

ALS Transfer designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities which are within the scope of practice established under IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05, for the purposes of providing medical care and transportation between medical care facilities. Designation ~~shall be~~ is for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 or Section 301 of these rules may qualify for ALS Transfer designation if the following criteria are met: ~~(4-5-00)~~(4-1-04)T

01. Personnel. The agency must have a sufficient number of personnel to assure availability corresponding to the anticipated call volume of the agency. (4-5-00)

a. EMT-Paramedic personnel must hold current certification issued by the EMS Bureau in accordance with Sections 501 and 510 of these rules. (4-5-00)

b. An agency which will advertise or provide ALS transfer of patients may use Ambulance-Based Clinicians as the medical care provider for those patients. The agency shall verify that all Ambulance-Based Clinicians have successfully completed a formal training program of out-of-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency shall assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. (4-5-00)

c. Personnel shall initiate advanced life support as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on-line medical direction as specified in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05. (4-5-00)

02. Required Documentation. The employment status and ongoing proficiency maintenance of the certified personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. (4-5-00)

a. The agency must submit a roster of all certified personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. (4-5-00)

b. The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all certified personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. (4-5-00)

03. Required Equipment. The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the *Paramedic Ambulance ALS* section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. ~~(4-5-00)~~(4-1-04)T

04. Administrative License Action. An ALS Transfer designation may be suspended or revoked in accordance with Section 515 of these rules. The agency is specifically prohibited from advertising or responding to pre-hospital and emergency requests for ALS unless the agency also holds pre-hospital ALS designation in accordance with Section 325 of these rules. The agency is specifically prohibited from advertising as or responding to requests for critical care transfer service unless the agency also holds Critical Care Transfer Service designation in accordance with Section 335 of these rules. (4-5-00)

331. -- 334. (RESERVED).

335. CRITICAL CARE TRANSFER SERVICE STANDARDS.

Critical Care Transfer Service designation of an agency by the EMS Bureau is required for any agency which will advertise or supply clinical personnel and equipment capabilities requiring knowledge or skills not contained within the EMT-Paramedic curriculum approved by the State Health Officer. Designation shall be for the same duration as the license issued to the EMS agency. An agency which has demonstrated compliance with Section 300 of these rules may qualify for Critical Care Transfer Service designation if the following criteria are met: (4-5-00)

01. Personnel. The agency must have a sufficient number of personnel to assure availability corresponding to the anticipated call volume of the agency. (4-5-00)

a. EMT-Paramedic personnel must hold current certification issued by the EMS Bureau in accordance with Sections 501 and 510 of these rules. All EMT-Paramedics who will be the primary or the only care provider during critical care transfers must have successfully completed a formal training program in critical care transport which meets or exceeds the objectives of the curriculum approved by the State Health Officer. (4-5-00)

b. An agency which will advertise or provide ALS transfer of patients may use Ambulance-Based Clinicians as the medical care provider for those patients. The agency shall verify that all Ambulance-Based Clinicians have successfully completed a formal training program of out-of-hospital medical care which meets or exceeds the objectives of the curriculum approved by the State Health Officer. The agency shall assure that any Ambulance-Based Clinicians meet additional requirements of the corresponding licensing board. (4-5-00)

c. Personnel shall initiate critical care as authorized by the physician designated as the Medical Director of the agency, and other physicians providing on-line medical direction as specified in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05. (4-5-00)

02. Required Documentation. The employment status and ongoing proficiency maintenance of the certified personnel and Ambulance-Based Clinicians associated with the agency must be documented on a periodic basis to the EMS Bureau. (4-5-00)

a. The agency must submit a roster of all certified personnel and Ambulance-Based Clinicians with the application for licensure. Any change in the roster due to attrition or hiring must be documented to the EMS Bureau in writing within sixty (60) calendar days of the change. (4-5-00)

b. The agency must maintain documentation of continuing education, refresher courses, and proficiency assurance of all certified personnel and Ambulance-Based Clinicians in accordance with the EMS Standards Manual in effect at the time of designation and any EMS Standards Manual which takes effect during the designation period. (4-5-00)

03. Required Equipment. The agency vehicle(s) must be equipped with the Minimum Required Equipment listed in the ~~Paramedic Ambulance~~ ALS section of the Minimum Equipment Standards incorporated in these rules. The agency must disclose all additional medical equipment routinely carried on the agency vehicle(s) not included in the Minimum Equipment Standards in the application provided by the EMS Bureau. ~~(4-5-00)~~(4-1-04)T

04. Administrative License Action. A Critical Care Transfer Service designation may be suspended or revoked in accordance with Section 515 of these rules. The agency is specifically prohibited from advertising or responding to pre-hospital and emergency requests for ALS unless the agency also holds pre-hospital ALS designation in accordance with Section 325 of these rules. (4-5-00)

336. -- 339. (RESERVED).

340. ADVANCED LIFE SUPPORT (ALS) DESIGNATION CATEGORIES.

Licensed EMS services are permitted to hold any combination of designations achieved by meeting the standards in Sections 325, 330, and 335 of these rules. Licenses or the designations associated with them can not be assigned or transferred. A standard system of designation ~~shall~~ must be used by the EMS Bureau to define which combination of clinical capabilities has been demonstrated by each ALS licensed EMS service. (4-5-00)(4-1-04)T

01. An ALS Level I. An ALS Level I license ~~shall~~ must be issued by the EMS Bureau to any applicant ~~which~~ who meets the requirements in Sections 325, 330 and 335 of these rules. (4-5-00)(4-1-04)T

02. An ALS Level II. An ALS Level II license ~~shall~~ must be issued by the EMS Bureau to any applicant ~~which~~ who meets the requirements in Sections 325 and 330 of these rules. (4-5-00)(4-1-04)T

03. An ALS Level III. An ALS Level III license ~~shall~~ must be issued by the EMS Bureau to any applicant ~~which~~ who meets the requirements in Sections 330 and 335 of these rules. (4-5-00)(4-1-04)T

04. An ALS Level IV. An ALS Level IV license ~~shall~~ must be issued by the EMS Bureau to any applicant ~~which~~ who meets the requirements in Section 330 of these rules. (4-5-00)(4-1-04)T

05. An ALS Level V. An ALS Level V license must be issued by the EMS Bureau to any applicant who meets the requirements in Section 325 of these rules. (4-1-04)T

(BREAK IN CONTINUITY OF SECTIONS)

500. CERTIFICATION.

In order to practice or represent himself as a First Responder, EMT-B, AEMT-A, EMT-I, or EMT-P, an individual must maintain current certification issued by the EMS Bureau. (7-1-97)(4-1-04)T

501. INITIAL CERTIFICATION.

Upon successful completion of an EMS training program, a candidate ~~who obtains a passing score on the National Registry examination corresponding to the level of certification being sought~~ may apply for certification to the EMS Bureau. In addition, candidates must satisfy the following requirements: (7-1-97)(4-1-04)T

01. Affiliation Required. Candidates for certification at the EMT-B, AEMT-A, EMT-I, and EMT-P levels must have current affiliation with a licensed EMS service which functions at, or higher than, the level of certification being sought by the applicant; (7-1-97)(4-1-04)T

02. Required Identification. Candidates for certification at any level must have a state driver's license, an Idaho identification card which is issued by a county driver's license examining station, or identification card issued by the Armed Forces of the United States; and (7-1-97)

03. Criminal Background Check. A criminal background check ~~shall~~ must be conducted for all applicants for initial certification in accordance with the standards and procedures established in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". The Division or the EMS Bureau may require an updated or additional criminal background check at any time, without expense to the applicant, if there is cause to believe new or additional information will be disclosed. Denial without the grant of an exemption ~~pursuant to~~ under IDAPA 16.05.06, ~~shall~~ will result in denial or revocation of certification. (7-1-97)(4-1-04)T

04. Fee For Initial Certification. The fee for initial certification for AEMT-A, EMT-I, and EMT-P ~~shall be~~ is thirty five dollars (\$35). (7-1-97)(4-1-04)T

05. Required Examination. Candidates for certification at any level must obtain a passing score on the standardized examination designated by the EMS Bureau. The examination type must correspond to the level of

certification being sought in accordance with the EMS Standards Manual in effect at the time of application.

(4-1-04)T

502. -- 509. (RESERVED).

510. CERTIFICATION DURATION AND RECERTIFICATION.

All certification is for the following specified intervals of time, during which time required continuing education, refresher courses and other proficiency assurances ~~shall~~ must be completed in order to renew the certification.

(7-1-97)(4-1-04)T

01. First Responder Certification. A First Responder ~~shall~~ will be issued certification for three (3) years. The duration of initial certification may be up to forty-two (42) months from the date of examination. Continuing education and refresher course ~~shall~~ must be conducted in accordance with the EMS Standards Manual in effect at the beginning of the certification interval.

(7-1-97)(4-1-04)T

02. EMT-B Certification. An EMT-B ~~shall~~ will be issued certification for three (3) years. The duration of initial certification may be up to forty-two (42) months from the date of examination. Continuing education, refresher course, and proficiency assurance documentation ~~shall~~ must be conducted in accordance with the EMS Standards Manual in effect at the beginning of the certification interval.

(7-1-97)(4-1-04)T

03. AEMT-A Certification. An AEMT-A ~~shall~~ will be issued certification for two (2) years. The duration of initial certification may be up to thirty (30) months from the date of examination. Continuing education, refresher course, and proficiency assurance documentation ~~shall~~ must be conducted in accordance with the EMS Standards Manual in effect at the beginning of the certification interval. The fee for recertification ~~shall be~~ is twenty-five dollars (\$25).

(7-1-97)(4-1-04)T

04. EMT-I Certification. An EMT-I ~~will~~ will be issued certification for two (2) years. The duration of initial certification may be up to thirty (30) months from the date of examination. Continuing education, refresher course, and proficiency assurance documentation must be conducted in accordance with the EMS Standards Manual in effect at the beginning of the certification interval. The fee for recertification is twenty-five dollars (\$25).

(4-1-04)T

045. EMT-P Certification. An EMT-P ~~shall~~ will be issued certification for two (2) years. The duration of initial certification may be up to thirty (30) months from the date of examination. Continuing education, refresher courses, and proficiency assurance documentation ~~shall~~ will be conducted in accordance with the EMS Standards Manual in effect at the beginning of the certification interval. The fee for recertification ~~shall be~~ is twenty-five dollars (\$25).

(7-1-97)(4-1-04)T

056. Required Documentation. Documentation of recertification requirements is due to the EMS Bureau prior to the certification expiration date. Failure to submit complete documentation of requirements by the certification expiration date renders the certification invalid and the candidate ~~shall~~ must not practice or represent himself as certified personnel.

(7-1-97)(4-1-04)T

067. Affiliation Required. Candidates for recertification at the EMT-B, AEMT-A, EMT-I, and EMT-P levels must have current affiliation with a licensed EMS service.

(7-1-97)(4-1-04)T

511. LAPSED CERTIFICATION.

After the expiration date of certification issued by the EMS Bureau, the certification ~~shall~~ will no longer be valid unless required recertification documentation has been submitted. No grace periods or extensions to an expiration date may be granted.

(7-1-97)(4-1-04)T

01. Reinstatement Of Certification. An individual may submit recertification documentation up to a maximum of two (2) years following the certification expiration date. In order for certification to be reinstated individuals must meet the requirements for initial certification. Continuing education proportionate to the amount of time since the last recertification must be documented.

(7-1-97)

02. Re-Entry. An individual whose certification has been expired for more than two (2) years must

~~obtain NREMT registration and submit proof of current NREMT registration with an application for certification attend and successfully complete an initial training program for the level of certification being sought. All other requirements for initial certification must be met. (7-1-97)(4-1-04)T~~

604. -- 9969. (RESERVED).

~~997. CONFIDENTIALITY OF RECORDS.~~

~~Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records". (7-1-97)~~

~~998. -- 999. (RESERVED).~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective 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 temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Chapters 6, 9, 10, 16 and 43, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 21, 2004.

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

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

Both West Nile Virus and Severe Acute Respiratory Syndrome (SARS) may arrive in Idaho within the next year, yet neither of these diseases is currently reportable under the current rules. This rule is being promulgated in order to have SARS on the list in case it resurfaces during the coming flu season, and to have West Nile Virus on the list in case it makes an appearance in the spring of 2004. Definitions for SARS and West Nile Virus will be added to the rule and those sections pertinent to reporting these diseases will be revised to include the two new diseases.

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, Idaho Code and are necessary in order to protect the public health, safety, or welfare.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because timelines did not permit negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Dr. Christine Hahn at (208) 334-5939.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 28, 2004.

DATED this 14th day of November, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0210-0401

010. REPORTABLE DISEASES AND CONDITIONS.

A licensed physician who diagnoses, treats or cares for a person with a reportable disease or condition must make a report of such disease or condition to the Department or District as described in these rules. The hospital or health care facility administrator, or his delegated representative, must report in accordance with these rules all persons who are diagnosed, treated, or receive care for a reportable disease or condition in the administrator's facility. Reports need not be made by the hospital administrator, or his representative, if they can assure that the attending physician has previously reported the disease or condition. The physician is also responsible for reporting diseases and conditions diagnosed, or treated by physician assistants, nurse practitioners or others under the physician's supervision. In addition to licensed physicians, reports must also be made by physician assistants, certified nurse practitioners, registered nurses, school health nurses, infection surveillance staff, public health officials, laboratory directors, and coroners. No physician, hospital administrative person, or patient may deny Districts or agents of the Board access to medical records in discharge of their duties in implementing the reportable disease rules. School administrators shall report as indicated in Subsection 025.03.g. (9-21-92)

01. Reportable Diseases And Conditions. The following diseases and conditions are reportable to the Department or District. (11-17-83)

- a. Diseases. (11-17-83)
 - i. Acquired immunodeficiency syndrome (AIDS); (11-17-83)
 - ii. Amebiasis; (11-17-83)
 - iii. Anthrax; (11-17-83)
 - iv. Biotinidase deficiency; (5-3-03)
 - v. Botulism; (11-17-83)
 - vi. Brucellosis; (11-17-83)
 - vii. Campylobacteriosis; (11-17-83)
 - viii. Cancer; (9-21-92)
 - ix. Chancroid; (11-17-83)
 - x. Chlamydia trachomatis infections; (4-1-86)
 - xi. Cholera; (11-17-83)
 - xii. Congenital hypothyroidism; (5-3-03)
 - xiii. Cryptosporidiosis; (4-5-00)
 - xiv. Diphtheria; (11-17-83)
 - xv. Encephalitis, viral or aseptic; (5-3-03)
 - xvi. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
 - xvii. Galactosemia; (5-3-03)

xviii.	Giardiasis;	(11-17-83)
xix.	Hantavirus pulmonary syndrome;	(4-5-00)
xx.	Haemophilus influenza invasive disease;	(9-21-92)
xxi.	Hepatitis A;	(11-17-83)
xxii.	Hepatitis B;	(11-17-83)
xxiii.	Hepatitis C;	(9-21-92)
xxiv.	Legionellosis;	(11-17-83)
xxv.	Leprosy;	(11-17-83)
xxvi.	Leptospirosis;	(11-17-83)
xxvii.	Listeriosis;	(4-5-00)
xxviii.	Lyme Disease;	(9-21-92)
xxix.	Malaria;	(11-17-83)
xxx.	Maple syrup urine disease;	(5-3-03)
xxxi.	Measles (Rubeola);	(11-17-83)
xxxii.	Meningitis, viral or aseptic;	(5-3-03)
xxxiii.	Mumps;	(11-17-83)
xxxiv.	Myocarditis, viral;	(4-5-00)
xxxv.	Neisseria gonorrhoeae infections;	(9-21-92)
xxxvi.	Neisseria meningitidis invasive disease;	(9-21-92)
xxxvii.	Pertussis;	(11-17-83)
xxxviii.	Phenylketonuria;	(5-3-03)
xxxix.	Plague;	(11-17-83)
xl.	Pneumocystis carinii pneumonia (PCP);	(9-21-92)
xli.	Pneumococcal invasive disease in children less than eighteen (18) years of age;	(5-3-03)
xlii.	Poliomyelitis;	(11-17-83)
xliii.	Psittacosis;	(11-17-83)
xliv.	Q fever;	(11-17-83)
xlv.	Rabies (human and animal);	(4-5-00)

xlvi.	Relapsing fever, tick-borne and louse-borne;	(4-5-00)
xlvii.	Rocky Mountain spotted fever;	(11-17-83)
xlviii.	Rubella (including congenital rubella syndrome);	(11-17-83)
xlix.	Salmonellosis (including typhoid fever);	(11-17-83)
<u>l.</u>	<u>Severe acute respiratory syndrome (SARS);</u>	<u>(12-1-03)T</u>
li.	Shigellosis;	(11-17-83)
lii.	Smallpox;	(5-3-03)
liii.	Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever;	(9-21-92)
liii v .	Syphilis;	(11-17-83)
liiv.	Tetanus;	(11-17-83)
lv.	Trichinosis;	(11-17-83)
lvii.	Tuberculosis;	(11-17-83)
lviii.	Tularemia;	(11-17-83)
<u>lix.</u>	<u>West nile virus infection;</u>	<u>(12-1-03)T</u>
lviii x .	Yersinosis.	(11-17-83)
b.	Conditions:	(11-17-83)
i.	CD-4 lymphocyte counts less than two hundred (200) per cubic millimeter of blood or less than or equal to fourteen percent (14%);	(4-5-00)
ii.	Extraordinary occurrence of illness, including clusters;	(4-5-00)
iii.	Food poisoning, foodborne illness, and waterborne illness;	(5-3-03)
iv.	Hemolytic-uremic syndrome (HUS);	(4-5-00)
v.	Human Immunodeficiency Virus (HIV) infections including, positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other tests of infectiousness, as specified by the Department;	(4-5-00)
vi.	Human T-Lymphotropic Virus infections;	(4-5-00)
vii.	Lead levels of ten (10) micrograms or more per deciliter of whole blood (ug/dl);	(9-21-92)
viii.	Reye syndrome;	(4-5-00)
ix.	Severe or unusual reactions to any immunization;	(4-5-00)
x.	Toxic shock syndrome;	(4-5-00)
02.	Form Of The Report.	(11-17-83)

a. Each report of a reportable disease or condition shall include the identity and address of the attending licensed physician or the person reporting, the diagnosed or suspected disease or condition, the name, current address, telephone number and birth date or age, race, ethnicity, and sex of the individual with the disease or condition, and the date of onset of the disease or condition. (4-5-00)

b. A report of a case or suspected case shall be made to the Department or the District by telephone, mail or fax. (4-5-00)

c. The identification of any organism known to cause a reportable disease or condition listed in Subsection 010.03.d. shall be reported to the Department or District by the laboratory director or his authorized representative. The report shall include the name (if known) or other identifier of the individual from whom the specimen was obtained, the name and address of the individual's physician or other person requesting the test, and the identity of the organism or other significant test result. (9-21-92)

03. When To Report. (11-17-83)

a. Some reportable diseases are considered to be of urgent public health importance, and must be reported to the Department or District immediately, day or night. These diseases include: (11-17-83)

- i. Anthrax; (4-5-00)
- ii. Botulism; (11-17-83)
- iii. Diphtheria; (11-17-83)
- iv. Plague; (11-17-83)
- v. Rabies in humans; (5-3-03)
- vi. Smallpox. (5-3-03)

b. The following reportable diseases and conditions must be reported to the Department or District within one (1) working day after diagnosis: (9-21-92)

- i. Brucellosis; (4-5-00)
- ii. Biotinidase deficiency; (5-3-03)
- iii. Cholera; (9-21-92)
- iv. Congenital hypothyroidism; (5-3-03)
- v. Escherichia coli O157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
- vi. Galactosemia; (5-3-03)
- vii. Hantavirus pulmonary syndrome; (4-5-00)
- viii. Haemophilus influenzae invasive disease; (9-21-92)
- ix. Hepatitis A; (9-21-92)
- x. Hepatitis B; (9-21-92)
- xi. Hemolytic-uremic syndrome (HUS); (4-5-00)

- xii. Maple syrup urine disease; (5-3-03)
- xiii. Measles; (11-17-83)
- xiv. Neisseria meningitidis invasive disease; (4-5-00)
- xv. Pertussis; (11-17-83)
- xvi. Phenylketonuria; (5-3-03)
- xvii. Poliomyelitis; (11-17-83)
- xviii. Q fever; (5-3-03)
- xix. Rabies in animals; (9-21-92)
- xx. Rubella (including congenital rubella syndrome); (11-17-83)
- xxi. Salmonellosis (including typhoid fever); (11-17-83)
- xxii. Severe acute respiratory syndrome (SARS); (12-1-03)T
- xxiii. Tularemia; (5-3-03)
- ~~xxiv.~~ Extraordinary occurrence of illness including clusters; (4-5-00)
- xxv. Severe or unusual reactions to any immunization; (11-17-83)
- xxvi. Food poisoning, foodborne illness, or waterborne illness. (5-3-03)
- c.** The remaining reportable diseases and conditions listed below shall be reported to the Department or District within three (3) working days of the identification of a case: (5-3-03)
 - i. Acquired immunodeficiency syndrome (AIDS); (9-21-92)
 - ii. Amebiasis; (9-21-92)
 - iii. CD-4 lymphocyte counts less than two hundred (200) per cubic millimeter of blood or less than or equal to fourteen percent (14%): (4-5-00)
 - iv. Campylobacteriosis; (9-21-92)
 - v. Chancroid; (9-21-92)
 - vi. Chlamydia trachomatis infections; (9-21-92)
 - vii. Cryptosporidiosis; (4-5-00)
 - viii. Encephalitis, viral or aseptic; (5-3-03)
 - ix. Giardiasis; (9-21-92)
 - x. Gonococcal infections; (9-21-92)
 - xi. Hepatitis C; (4-5-00)
 - xii. Human Immunodeficiency Virus (HIV) infections including, positive HIV tests: HIV Antibody,

HIV Antigen, Human Immunodeficiency Virus isolations, other tests of infectiousness, as specified by the Department. (4-5-00)

- xiii. Human T-Lymphotropic Virus infections; (4-5-00)
 - xiv. Lead levels of ten (10) micrograms or more per deciliter of whole blood (ug/dl); (9-21-92)
 - xv. Legionellosis; (9-21-92)
 - xvi. Leprosy; (9-21-92)
 - xvii. Leptospirosis; (9-21-92)
 - xviii. Listeriosis; (4-5-00)
 - xix. Lyme Disease; (9-21-92)
 - xx. Malaria; (9-21-92)
 - xxi. Meningitis, viral or aseptic; (5-3-03)
 - xxii. Mumps; (9-21-92)
 - xxiii. Myocarditis, viral; (4-5-00)
 - xxiv. Pneumococcal invasive disease in children less than eighteen (18) years of age; (5-3-03)
 - xxv. Pneumocystis carinii pneumonia (PCP); (9-21-92)
 - xxvi. Psittacosis; (9-21-92)
 - xxvii. Relapsing fever, tick-borne or louse-borne; (4-5-00)
 - xxviii. Reye syndrome; (9-21-92)
 - xxix. Rocky Mountain spotted fever; (9-21-92)
 - xxx. Shigellosis; (9-21-92)
 - xxxi. Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
 - xxxii. Syphilis; (9-21-92)
 - xxxiii. Tetanus; (9-21-92)
 - xxxiv. Trichinosis; (9-21-92)
 - xxxv. Toxic shock syndrome; (9-21-92)
 - xxxvi. Tuberculosis; (9-21-92)
 - xxxvii. West nile virus infection; (12-1-03)T
 - xxxviii. Yersiniosis; (9-21-92)
- d.** The laboratory director or his authorized representative shall report the identification of the

following organisms or significant serologic results or chemical determinations to the Department or District immediately, day or night. The organisms, serologic tests, and chemical determinations to be reported include:

- i. Bacillus anthracis; (4-5-00)
- ii. Yersinia pestis; (4-5-00)
- iii. Corynebacteria diphtheria; and (4-5-00)
- iv. Rabies, human or animal. (4-5-00)

e. The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District within one (1) working day after identification. The organisms, serologic tests, and chemical determinations to be reported include: (4-5-00)

- i. Biotinidase deficiency; (5-3-03)
- ii. Bordetella pertussis; (4-5-00)
- iii. Brucella species; (4-5-00)
- iv. Congenital hypothyroidism; (5-3-03)
- v. Escherichia coli 0157:H7 or other shiga-toxin producing E. coli (STEC); (4-5-00)
- vi. Francisella tularensis; (5-3-03)
- vii. Galactosemia; (5-3-03)
- viii. Hantavirus; (4-5-00)
- xi. Maple syrup urine disease; (5-3-03)
- x. Neisseria meningitidis from CSF or blood; (5-3-03)
- xi. Phenylketonuria; (5-3-03)
- xii. Severe acute respiratory syndrome (SARS); (12-1-03)T
- xiii. Vibrio cholerae. (4-5-00)

f. The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District within three (3) working days. The organisms, serologic tests, and chemical determinations to be reported include: (5-3-03)

- i. CD-4 Lymphocyte Counts below two hundred (200) per cubic millimeter (cu/mm) of blood or less than or equal to fourteen percent (14%); (4-5-00)
- ii. Campylobacter species; (4-5-00)
- iii. Chlamydia trachomatis; (4-1-86)
- iv. Cryptosporidium; (4-5-00)
- v. Giardia; (4-5-00)

- vi. Haemophilus influenzae from CSF or blood; (11-17-83)
- vii. Hepatitis A (IgM antibody); (11-17-83)
- viii. Hepatitis B surface antigen; (11-17-83)
- ix. Hepatitis C antibody or antigen; (9-21-92)
- x. Human Immunodeficiency Virus (HIV) tests: positive HIV Antibody, HIV Antigen, Human Immunodeficiency Virus culture, or other tests of infectiousness, as specified by the Department; (4-5-00)
- xi. Human T-Lymphotropic Virus positive tests; (4-5-00)
- xii. Lead levels of ten (10) micrograms or more per deciliter (ug/dl) of whole blood; (9-21-92)
- xiii. Listeria species; (4-5-00)
- xiv. Mycobacterium tuberculosis complex; (4-5-00)
- xv. Neisseria gonorrhoeae; (11-17-83)
- xvi. Plasmodium species; (11-17-83)
- xvii. Salmonella species; (11-17-83)
- xviii. Shigella species; (11-17-83)
- xix. Syphilis tests (positive or reactive USR, RPR, VDRL, FTA, darkfield, others); (11-17-83)
- xx. West nile virus; (12-1-03)T
- xxi. Yersinia enterocolitica; (11-17-83)
- xxii. Yersinia pseudotuberculosis; (9-21-92)
- g. Cancer is to be reported within one hundred and eighty (180) days of its diagnosis or recurrence to the Department or the Department's designated agent or contractor. (4-5-00)
- 04. Handling Of Reports By The Department And Districts. (9-21-92)**
 - a. The Department and the District shall exchange reported information within one (1) working day by telephone on any reported case or suspected case of the following reportable diseases or conditions: (9-21-92)
 - i. Anthrax; (4-5-00)
 - ii. Botulism; (11-17-83)
 - iii. Brucellosis; (5-3-03)
 - iv. Cholera; (11-17-83)
 - v. Diphtheria; (11-17-83)
 - vi. E. coli O157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
 - vii. Food poisoning, foodborne illness, or waterborne illness; (5-3-03)

- viii. Hantavirus pulmonary syndrome; (4-5-00)
 - ix. Haemophilus influenzae invasive disease; (9-21-92)
 - x. Measles; (11-17-83)
 - xi. Neisseria meningitidis invasive disease; (9-21-92)
 - xii. Pertussis; (11-17-83)
 - xiii. Plague; (11-17-83)
 - xiv. Poliomyelitis; (11-17-83)
 - xv. Rabies in humans or animals; (4-5-00)
 - xvi. Rubella (including congenital rubella syndrome); (11-17-83)
 - xvii. Salmonella typhi infection; (11-17-83)
 - xviii. Severe acute respiratory syndrome (SARS); (12-1-03)T
 - ~~xviii.~~ Smallpox; (5-3-03)
 - ~~xix.~~ Syphilis; (11-17-83)
 - ~~xx.~~ Tularemia; (5-3-03)
 - xxi. Extraordinary occurrence of illness including clusters; (4-5-00)
 - xxii. Severe or unusual reaction to any immunization. (11-17-83)
- b.** The District shall notify the Department no later than weekly of all other cases of reportable diseases and conditions not specified in Subsection 010.04.a. (9-21-92)
- c.** No employee of the Department or District shall disclose the identity of persons named in disease reports except when necessary for the purpose of administering the public health laws of this state. (11-17-83)

(BREAK IN CONTINUITY OF SECTIONS)

020. SPECIFIC CONTROL MEASURES FOR REPORTABLE DISEASES.

01. Acquired Immune Deficiency Syndrome (AIDS). (9-21-92)

- a.** Each case of AIDS meeting the current case definition established by the Centers for Disease Control and Prevention shall be reported to the Department or District within three (3) working days of identification. (5-3-03)
- b.** Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection or CD-4 lymphocyte counts below two hundred (200) per cubic millimeter (cu/mm) of blood must be reported. (4-5-00)
- c.** Each report of a case of AIDS shall be investigated to obtain specific clinical information, to

identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. (4-5-00)

d. A physician may order blood tests for the human immunodeficiency virus (HIV) when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (9-21-92)

02. Amebiasis. (11-17-83)

a. Each case of amebiasis shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. A preliminary investigation of each case shall be performed to determine if the case is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending a day care facility. (11-17-83)

c. Persons excreting *Entamoeba histolytica* shall not work as food handlers and shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons confined to health care facilities unless special exemption is made by the Department or authorized representative of the Department. (11-17-83)

i. This restriction may be rescinded if an effective therapeutic regimen has been completed and/or at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. (9-21-92)

ii. Any member of a household in which there is a case of amebiasis may engage in any of the above occupations at the discretion of the Department provided at least one (1) approved fecal specimen is negative for ova and parasites on examination by a licensed laboratory. (9-21-92)

d. Fecally incontinent persons who are excreting *Entamoeba histolytica* shall not attend day care facilities unless special exemption is made by the Department or authorized representative of the Department. (9-21-92)

03. Anthrax. (11-17-83)

a. Each case or suspected case of anthrax in humans shall be reported to the Department or District by telephone at the time of identification, day or night. (4-5-00)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of infection. Any identified or suspected source of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture. (11-17-83)

04. Botulism. (11-17-83)

a. Each case or suspected case of botulism shall be reported to the Department or District at the time of identification, day or night. (11-17-83)

b. An investigation of each case or suspected case of botulism shall be performed to confirm the diagnosis, to determine if other persons have been exposed to botulinum toxins, and to identify the source of the disease. (9-21-92)

05. Brucellosis. (11-17-83)

a. Each case of brucellosis shall be reported to the Department or District within one (1) working day of the identification. (4-5-00)

b. Each report of a case shall be investigated to confirm the diagnosis and to identify the source of the

infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture. (9-21-92)

06. Campylobacteriosis. (11-17-83)

a. Each case of campylobacteriosis shall be reported to Department or District within three (3) working days of the identification. (5-3-03)

b. An investigation of each case shall be performed to determine the extent of the outbreak and to identify the source of the infection. (11-17-83)

c. Persons excreting *Campylobacter* spp. shall not work as food handlers or provide personal care in day care, custodial institutions, or medical facilities unless exemption is obtained from the Department or District. This restriction will be rescinded provided at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Campylobacter* spp. upon testing by a licensed laboratory. (4-5-00)

d. Fecally incontinent persons who are excreting *Campylobacter* spp. shall not attend day care facilities unless exemption is made by the Department. (4-5-00)

07. Cancer. (11-17-83)

a. The following neoplasms are designated as reportable to the cancer data registry of Idaho within one hundred and eighty (180) days of diagnosis or recurrence: (4-5-00)

i. Each in-situ or malignant neoplasm diagnosed by histology, radiology, laboratory testing, clinical observation, autopsy, or suggested by cytology, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix is reportable. (4-5-00)

ii. Benign neoplasms are reportable if occurring in the brain, meninges, pineal gland, or pituitary gland. (9-21-92)

b. The use of the words “apparently,” “compatible with,” “consistent with,” “favor,” “most likely,” “presumed,” “probable,” “suspected,” “suspicious,” or “typical” is sufficient to make a case reportable. (9-21-92)

c. The use of the words “questionable,” “possible,” “suggests,” “equivocal,” “approaching,” and “rule out” is not sufficient to make a case reportable. (9-21-92)

d. Each case must be reported by patient's name, demographic information, date of diagnosis, primary site, metastatic sites, histology, stage of disease, initial treatments, subsequent treatment, and survival time. (9-21-92)

e. Every private, federal, or military hospital, pathology laboratory, or physician providing a diagnosis and/or treatment related to a reportable cancer is responsible for reporting or furnishing cancer-related data, including annual follow-up, to the cancer data registry. (5-3-03)

f. All data reported to the cancer data registry shall be available for use in aggregate form for epidemiologic analysis of the incidence, prevalence, survival, and risk factors associated with Idaho's cancer experience. Disclosure of confidential information for research projects must comply with the cancer data registry's confidentiality policies, as well as the Idaho Department of Health and Welfare's Rules, IDAPA 16.05.01, “Use and Disclosure of Department Records”. (9-21-92)

08. Chancroid. (11-17-83)

a. Each case of chancroid shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. Each person diagnosed with chancroid shall be required to inform their sexual contacts that they have been exposed to a venereal disease, or provide specific information so public health officials may locate such

contacts, so the contacts can be examined and treated (Section 39-605, Idaho Code). (11-17-83)

c. Each case or suspected case of chancroid shall be investigated by a representative of the Department or District after notification has been received. (4-5-00)

09. Chlamydia Trachomatis Infections. (9-21-92)

a. Each case of Chlamydia trachomatis infection shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each person diagnosed with Chlamydia trachomatis pelvic inflammatory disease shall be investigated to determine the extent of the contact follow-up required. (4-5-00)

c. Cases of Chlamydia trachomatis ophthalmia neonatorum in health care facilities shall be placed under contact precautions. (4-5-00)

d. Prophylaxis against Chlamydia trachomatis ophthalmia neonatorum is required in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 02, Chapter 12, "Rules Governing Procedures and Testing To Be Performed on Newborn Infants". (9-21-92)

10. Cholera. (9-21-92)

a. Each case or suspected case of cholera shall be reported to the Department or District by telephone within one (1) working day. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of the infection. (11-17-83)

c. Persons in health care facilities who have cholera shall be placed under contact precautions. (4-5-00)

d. Persons excreting *Vibrio cholerae* shall not work as food handlers, and shall not engage in any occupation which provides personal care to children in day care facilities or to persons confined to health care or residential facilities. (11-17-83)

e. Members of the household in which there is a case of cholera may not engage in any of the above occupations unless approved by the Department, or District and provided that they are asymptomatic and at least one (1) approved fecal specimen is found to be negative on culture by a licensed laboratory. (9-21-92)

f. Fecally incontinent persons who are excreting *Vibrio cholerae* shall not attend day care facilities. (9-21-92)

11. Cryptosporidiosis. (4-5-00)

a. Each case of cryptosporidiosis shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. An investigation of each case shall be performed to determine the extent of the outbreak and to identify the source of the infection. (4-5-00)

c. Persons with *Cryptosporidium* diarrheal illness shall not work as food handlers or provide personal care in day care facilities, custodial institutions, or medical facilities unless exemption is obtained from the Department or District. This restriction will be rescinded provided at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory or twenty-four (24) hours after diarrhea has ceased. (4-5-00)

d. Fecally incontinent persons who are excreting *Cryptosporidium* shall not attend day care facilities

unless exemption is made by the Department. (4-5-00)

12. Diphtheria. (11-17-83)

a. Each case or suspected case of diphtheria shall be reported to the Department or District by telephone immediately, day or night, upon identification. (11-17-83)

b. Each report of a case or suspected case shall be investigated to determine if illness is caused by a toxigenic strain of *Corynebacterium diphtheriae*, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of the infection. (11-17-83)

c. Cases of oropharyngeal toxigenic diphtheria in health care facilities shall be placed under droplet precautions. The Department or authorized representative of the Department may rescind this isolation requirement after two (2) cultures of the nose and two (2) cultures from the throat, taken at least twenty-four (24) hours apart and at least twenty-four (24) hours after the completion of antibiotic therapy, fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (4-5-00)

d. Cases of cutaneous toxigenic diphtheria shall be placed under contact precautions. The Department or authorized representative of the Department may rescind these precautions after two (2) cultures from the wound fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (4-5-00)

e. Contacts of cases of toxigenic diphtheria shall be offered immunization against diphtheria. (11-17-83)

f. Contacts shall be restricted from working as food handlers, working in health care facilities, or residential facilities, or from attending or working in day care facilities or schools until they are determined not to be carriers by means of a nasopharyngeal culture or culture of other site suspected to be infected. This restrictions may be rescinded by the Department or authorized representative of the Department. (11-17-83)

13. Escherichia coli (E. coli) 0157:H7 And Other Shiga Toxin Producing E. coli (STEC). (4-5-00)

a. Each case of infection with *E. coli* 0157:H7 and other STEC shall be reported to the Department or District within one (1) working day of the identification. (4-5-00)

b. A preliminary investigation of each case shall be performed to determine if the person is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending a day care facility. The investigation shall determine the extent of the outbreak and identify the most likely source of the infection. (9-21-92)

c. Persons who are excreting *E. coli* 0157:H7 and other STEC may not provide personal care to children in day care facilities or to persons in health care facilities or work as food handlers while the disease is present in a communicable form without the approval of the Department or the District. One (1) negative fecal specimen for *E. coli* 0157:H7 and other STEC is sufficient to remove restrictions on personnel. (4-5-00)

d. Fecally incontinent persons who are excreting *E. coli* 0157:H7 and other STEC may not attend day care facilities unless exemption is made by the Department or District. One (1) negative fecal specimen for *E. coli* 0157:H7 and other STEC is sufficient to remove day care attendance restrictions. (4-5-00)

14. Giardiasis. (11-17-83)

a. Each case of giardiasis shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. A preliminary investigation of each case shall be performed to determine if the person is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending day care facility. The preliminary investigation shall also determine the water sources used by the person with giardiasis. The investigation shall determine the extent of the outbreak, and identify the most likely source of the infection.

(11-17-83)

c. Persons with diarrhea who are excreting Giardia may not provide personal care to children in day care facilities or to persons in health care facilities or work as food handlers while the disease is present in a communicable form or until two (2) days of therapy have been completed. Asymptomatic persons may provide these services with specific approval of the Department or District. (4-5-00)

d. Fecally incontinent persons with diarrhea who are excreting Giardia lamblia may not attend day care facilities. Asymptomatic children who are excreting Giardia may attend after investigation is made, hygiene of the facility is determined adequate, and an exemption is made by the Department. (4-5-00)

15. Hantavirus Pulmonary Syndrome. (4-5-00)

a. Each case of acute hantavirus infection manifesting as the hantavirus pulmonary syndrome, will be reported to the Department or District within one (1) day of identification. (4-5-00)

b. Each report of a case shall be investigated to confirm the diagnosis, determine environmental risk factors leading to infection, and determine any other at-risk individuals. (4-5-00)

c. The extended CDC case investigation and environmental assessment forms shall be completed in a timely manner. (4-5-00)

16. Haemophilus Influenzae Invasive Disease. (9-21-92)

a. Each case of invasive Haemophilus influenzae invasive disease, including but not limited to meningitis, septicemia, bacteremia, epiglottitis, pneumonia, osteomyelitis and cellulitis, shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify contacts, and to determine the need for antimicrobial prophylaxis of close contacts. (11-17-83)

c. Any person who is diagnosed with a disease caused by invasive Haemophilus influenzae shall not provide personal care to children attending a day care facility, or be engaged in any occupation where there is direct contact with students in a private, parochial, or public school as long as the disease is in a communicable form. (11-17-83)

d. Any person who is diagnosed with a disease caused by invasive Haemophilus influenzae shall not attend a day care facility, or a private, parochial, or public school as long as the disease is in a communicable form. (11-17-83)

17. Hemolytic Uremic Syndrome (HUS). (4-5-00)

a. Each case of HUS shall be reported to the Department or District within one (1) working day. (4-5-00)

b. Each case of HUS shall be investigated to confirm the diagnosis, determine the etiologic agent including E. coli O157:H7, non-O157 shiga-toxin producing E. coli, other enteric pathogens, and determine the source of infection. (4-5-00)

18. Hepatitis A. (9-21-92)

a. Each case or suspected case of hepatitis A shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to identify contacts, to determine the need for immune serum globulin (gamma globulin), and to identify possible sources of the infection so subsequent cases may be prevented. (11-17-83)

c. Persons with hepatitis A in health care facilities shall be placed under contact precautions as long as the disease is present in a communicable form. (4-5-00)

d. Persons with hepatitis A shall be restricted from working as a food handler and shall not engage in any occupation in which he/she provides personal care to children in a day care facility or to persons who are confined to health care or residential care facilities. (11-17-83)

i. The Department or authorized representative of the Department may rescind this restriction when the illness is considered no longer to be in a communicable stage. (11-17-83)

ii. Any unvaccinated member of the household in which there is a case of hepatitis A may not engage in any of the above mentioned occupations unless exemption is obtained from the Department or District. (4-5-00)

iii. A specific test for recent hepatitis A infection (IgM antiHAV) shall be performed by a licensed laboratory on all food handlers suspected of having hepatitis A (9-21-92)

e. Children who have hepatitis A shall not attend nurseries or day care facilities until the disease is no longer communicable as determined by a licensed physician, or unless exemption is made by the Department or District. (9-21-92)

f. A physician may order blood tests for hepatitis A when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

19. Hepatitis B. (9-21-92)

a. Each case of hepatitis B shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis, to identify contacts and carriers, to determine the need for prophylaxis with immune globulins, to determine the need for hepatitis B vaccine, to determine the exposure of any pregnant women, and to identify possible sources of the infection so subsequent cases can be prevented. (9-21-92)

c. The carrier status of all persons diagnosed with hepatitis B shall be determined six (6) months after the initial diagnosis is established. (11-17-83)

i. The carrier status shall be determined by the presence of hepatitis B surface antigen (HBsAg) in blood obtained at least six (6) months after the initial diagnosis of hepatitis B. (9-21-92)

ii. The test for hepatitis B surface antigen (HBsAg) shall be performed by a licensed laboratory. (11-17-83)

iii. All persons who are carriers of hepatitis B shall be reported to the Department or District by their physician at the time of determination for inclusion in the hepatitis B carrier registry. (9-21-92)

d. A physician may order blood tests for hepatitis B when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

20. Hepatitis C. (9-21-92)

a. Each case of hepatitis C shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each reported case of hepatitis C shall be investigated to confirm the diagnosis, and to identify

possible sources of the infection so subsequent cases may be prevented. (4-5-00)

c. A physician may order blood tests for hepatitis C when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (9-21-92)

21. Human Immunodeficiency Virus (HIV) Infection. (4-5-00)

a. Each case of HIV infection shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection must be reported as described in Subsection 010.03.d.i. (4-5-00)

c. Each reported case of HIV infection shall be investigated to obtain specific clinical information, to identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. (4-5-00)

d. A physician may order blood tests for the HIV when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-5-00)

22. Human T-Lymphotropic Virus (HTLV) Positive Tests. (4-5-00)

a. HTLV infections (I and II) shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. Each reported case of HTLV infection may be investigated to determine the source of infection and evaluate risk factors. (4-5-00)

23. Legionellosis. (11-17-83)

a. Each case of legionellosis shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. Each reported case of legionellosis shall be investigated to confirm the diagnosis, and to identify possible sources of the infection so subsequent cases may be prevented. (4-5-00)

c. When two (2) or more cases occur within thirty (30) days of each other, an investigation shall be conducted to identify a common environmental source, and to identify ways to prevent further infections. (4-5-00)

24. Leprosy. (11-17-83)

a. Each case of leprosy shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. Each reported case or suspected case shall be investigated to confirm the diagnosis and to identify all household or other close contacts. (11-17-83)

c. All household or close contacts of a new case shall be examined by a licensed physician for signs of leprosy. Household contacts and patients in remission shall be registered with the Department and undergo periodic medical examinations every six (6) to twelve (12) months for five (5) years. (11-17-83)

25. Leptospirosis. (11-17-83)

a. Each case of leptospirosis shall be reported to the Department or District within three (3) working

days of identification. (5-3-03)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture if animals are involved. (11-17-83)

26. Listeriosis. (4-5-00)

a. Each case of listeriosis shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify possible sources of the infection and extent of the outbreak. (4-5-00)

27. Lyme Disease. (9-21-92)

a. Each case of Lyme Disease shall be reported to the Department or District within three (3) working days of the identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture if animals are involved. (9-21-92)

28. Malaria. (9-21-92)

a. Each case of malaria shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case shall be investigated to determine the type and the source of the infection. (9-21-92)

c. If transmission may have occurred in Idaho, an entomologic investigation shall be performed by the Department or District to determine the extent of mosquito activity, and to institute control measures if endemic transmission has been determined. (4-5-00)

d. A physician may order blood tests for malaria when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

29. Measles. (9-21-92)

a. Each case or suspected case of measles (rubeola) shall be reported to the Department or District by telephone within one (1) working day after identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated promptly to confirm the diagnosis, to determine the extent of the outbreak, to identify the source of the infection, and to identify susceptible contacts. (11-17-83)

c. Cases or suspected cases of measles in health care facilities shall be placed under airborne precautions until the fifth day after the onset of rash. (4-5-00)

d. A person who is diagnosed as having measles shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is direct contact with children. (4-5-00)

e. A child diagnosed with measles shall not attend a day care facility as long as the disease is in a communicable stage. (11-17-83)

f. Any person, regardless of age, shall not attend a private, parochial, charter, or public school as long as the disease is in a communicable stage. (4-5-00)

g. In the event of an outbreak, susceptible children must be excluded from day care facilities and schools until adequate immunization is obtained, or the threat of further spread is contained (Section 33-512, Idaho Code). (9-21-92)

30. Mumps. (9-21-92)

a. Each case of mumps shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case may be investigated to determine the immunization history or if there is an unusual cause for an outbreak. (9-21-92)

c. Each case of mumps shall be restricted from school or work for nine (9) days after onset of parotid swelling. (4-5-00)

31. Myocarditis, Viral. (4-5-00)

a. Each case of diagnosed or suspected viral myocarditis shall be reported within three (3) working days of identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis, to identify clusters or outbreaks of the infection, and to identify the agent or source of the infection. (4-5-00)

32. Neisseria Gonorrhoeae Infections. (9-21-92)

a. Each case of Neisseria gonorrhoeae infection shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each person diagnosed with urethral, cervical, oropharyngeal, or rectal gonorrhea shall be required to inform their sexual contacts, or provide sufficient information so public health officials may locate such contacts, advise that they have been exposed to a sexually transmitted infection (venereal disease) and should seek examination and treatment. (4-5-00)

c. Cases of gonococcal ophthalmia neonatorum in health care facilities shall be placed under wound and skin precautions. (11-17-83)

d. Prophylaxis against gonococcal ophthalmia neonatorum shall be as described in Idaho Department of Health and Welfare Rules, IDAPA 16.02.12, "Rules Governing Procedures and Testing To Be Performed on Newborn Infants". (11-17-83)

33. Neisseria Meningitidis Invasive Disease. (9-21-92)

a. Each case of invasive disease caused by Neisseria meningitidis, including but not limited to meningitis and septicemia shall be reported to the Department or District by telephone within one (1) working day of identification. (4-5-00)

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify contacts, and to determine the need for antimicrobial prophylaxis and/or immunization of close contacts. (9-21-92)

c. Any person who is diagnosed with a disease caused by Neisseria meningitidis shall not provide personal care to children attending a day care facility, or engage in any occupation where there is direct contact with students in private, parochial, charter, or public schools as long as the disease is present in a communicable form. (4-5-00)

d. Any person who is diagnosed with a disease caused by *Neisseria meningitidis* shall not attend a day care facility, or a private, parochial, charter, or public school as long as the disease is present in a communicable form. (4-5-00)

e. Persons with meningococcal disease in health care facilities or residential care facilities shall be placed under respiratory isolation until twenty-four (24) hours after the initiation of effective therapy. (11-17-83)

34. Pertussis. (9-21-92)

a. Each case or suspected case of pertussis shall be reported to the Department or District by telephone within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify susceptible contacts, and to identify the source of the infection so additional cases can be prevented. (11-17-83)

c. A person who is diagnosed with pertussis shall not engage in any occupation in which there is direct contact with children in a day care facility or other persons in health care facilities, residential care facilities, or schools as long as the disease is in a communicable stage. (11-17-83)

d. Any person diagnosed with pertussis shall not attend a private, parochial, charter, or public school or a day care facility as long as the disease is in a communicable stage. (4-5-00)

35. Plague. (11-17-83)

a. Each case or suspected case of plague shall be reported to the Department or District by telephone immediately, day or night, upon identification, which shall notify the Idaho Department of Agriculture if animals are involved. (4-5-00)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, determine the source and extent of the outbreak, and to ascertain if there has been person-to-person transmission. (11-17-83)

c. Cases or suspected cases of pneumonic plague in health care facilities shall be placed under droplet precautions until two (2) full days of appropriate antibiotic therapy has been completed, and there has been a favorable clinical response. (4-5-00)

d. Cases or suspected cases of bubonic plague in health care facilities shall be placed under strict isolation precautions and treated with appropriate antibiotics. (9-21-92)

e. Household and face-to-face contacts of persons with pneumonic plague shall be placed on chemoprophylaxis and placed under surveillance for seven (7) days. Persons who refuse chemoprophylaxis shall be maintained under droplet precautions with careful surveillance for seven (7) days. (4-5-00)

36. Pneumococcal Disease. (5-3-03)

a. Each case of invasive Pneumococcal disease in children less than eighteen (18) years of age, including but not limited to meningitis, septicemia, bacteremia, and pneumonia shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis and determine relevant vaccine history. (5-3-03)

c. Any child who is diagnosed with Pneumococcal invasive disease shall be restricted from a day care facility, school, or work as long as the disease is in a communicable form. (5-3-03)

- 37. Pneumocystis Carinii Pneumonia (PCP).** (9-21-92)
- a.** Each case of *Pneumocystis carinii* pneumonia shall be reported to the Department or District within three (3) working days of identification. (5-3-03)
- b.** Each report of a case shall be investigated to confirm the diagnosis, and to determine the underlying cause of any immune deficiency which may have contributed to the disease. If the underlying cause is an HIV infection, that shall be reported. (9-21-92)
- 38. Poliomyelitis.** (9-21-92)
- a.** Each case or suspected case of poliomyelitis shall be reported to the Department or District by telephone within one (1) working day of identification. (9-21-92)
- b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine whether the case is polio vaccine associated, or wild virus associated, to determine the extent of the outbreak, to ascertain if there has been person-to-person transmission, to identify susceptible contacts, carriers, and the source of the infection. (9-21-92)
- c.** The immunization status of all contacts shall be ascertained and all susceptible contacts shall be offered immunization. (11-17-83)
- 39. Psittacosis.** (11-17-83)
- a.** Each case of psittacosis shall be reported to the Department or District within three (3) working days of identification. (5-3-03)
- b.** Each case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contact with possible sources of the infection. (11-17-83)
- c.** Any identified sources or suspected sources of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture if birds or other animals are involved. (11-17-83)
- 40. Q Fever.** (11-17-83)
- a.** Each case shall be reported to the Department or District within one (1) working day of identification. (5-3-03)
- b.** Each reported case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of the infection. (11-17-83)
- c.** Any identified or suspected sources of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture if animals are involved. (11-17-83)
- 41. Rabies.** (11-17-83)
- a.** Each case or suspected case of rabies in humans shall be reported immediately to the Department or District, day or night, upon identification. Each case of rabies in animals shall be reported to the Department or District and the Department of Agriculture within one (1) working day. (4-5-00)
- b.** Each report of a case or suspected case of rabies in humans shall be investigated to confirm the diagnosis, to identify the source and other persons or animals that may have been exposed to the source, and to identify persons who may need to undergo prophylaxis with rabies immune globulin and rabies vaccine. (4-5-00)
- c.** Each instance of post-exposure prophylaxis (PEP) initiation shall be reported to the Department or District within one (1) working day. (4-5-00)

d. Each reported PEP initiation shall be investigated to determine if additional individuals require PEP and to identify the source of possible exposure. (4-5-00)

e. In the event that a human or animal case of rabies occurs, any authorized representative of the Idaho Department of Agriculture or Department or District shall establish such isolation and quarantine of animals as deemed necessary to protect the public health. (9-21-92)

f. The handling of a rabies susceptible animal which has bitten a person shall be as follows:(9-21-92)

i. Any livestock which has bitten a person shall be managed by the Department of Agriculture. (9-21-92)

ii. Any healthy domestic dog, cat, or ferret which has bitten a person shall be observed for ten (10) days following the bite under the supervision of a licensed veterinarian or other person designated by the Idaho Department of Agriculture or the Department. Such observation shall be within an enclosure, or with restraints deemed adequate to prevent contact with any member of the public or other animals. (4-5-00)

iii. It shall be the animal owner's responsibility to carry out the quarantine of the biting animal and to follow instructions provided for the quarantine of the animal. (11-17-83)

iv. Any domestic dog, cat, or ferret that has not been vaccinated against rabies and cannot be quarantined, shall be destroyed by a means other than shooting in the head. The head shall be submitted to an approved laboratory for rabies analysis. (4-5-00)

v. Susceptible animals other than domestic dogs, cats, ferrets, or livestock shall be destroyed and the head submitted to an approved laboratory for rabies analysis. (4-5-00)

vi. No person shall destroy or allow to be destroyed the head of a rabies susceptible animal which has bitten a person without authorization from the Department. (11-17-83)

g. The handling of a rabies susceptible animal that has not bitten a person, but has within the past one hundred eighty (180) days been bitten, mouthed, or mauled by, or closely confined in the same premises with a known rabid animal shall be as follows: (9-21-92)

i. Any domestic dog, cat, ferret, or livestock which has not been vaccinated as recommended by the American Veterinary Medical Association, shall be placed in quarantine for a period of six (6) months under the observation of a licensed veterinarian or a person designated by the Department or the Department of Agriculture and vaccinated one (1) month prior to release from quarantine. Vaccinated animals including livestock should be revaccinated immediately with a currently recommended rabies vaccine and quarantined for ninety (90) days. These provisions apply only to domestic animals for which an approved rabies vaccine is available. (4-5-00)

ii. The quarantine of such animal shall be within an enclosure deemed adequate by an authorized representative of the Idaho Department of Agriculture or the Department, or District to prevent contact with any person or rabies susceptible animal. (9-21-92)

iii. The owner of the animal shall be financially responsible for the cost of isolating and quarantining the animal and costs for specimen collection and testing. (11-17-83)

iv. Destruction of such animal shall be permitted as an alternative to quarantine. (11-17-83)

h. Any rabies susceptible animal other than domestic dogs, cats, ferrets, or livestock which are suspected of having rabies, or which have been in close contact with an animal known to be rabid shall be destroyed. The animal shall be tested by an approved laboratory for rabies if a person has been bitten, or has had direct contact with the animal which might result in the person becoming infected. (4-5-00)

i. Nothing in these rules is intended or shall be construed to limit the power of any city or county in its authority to enact more stringent requirements to prevent the transmission of rabies. (11-17-83)

- 42. Relapsing Fever.** (11-17-83)
- a.** Each case of relapsing fever shall be reported to the Department or District within three (3) working days of identification. (5-3-03)
- b.** Each report of a case shall be investigated to confirm the diagnosis, determine the extent and source of the outbreak, and to ascertain whether transmission by lice or ticks is likely. (11-17-83)
- 43. Reye Syndrome.** (9-21-92)
- a.** Each case of Reye syndrome shall be reported to the Department or District within three (3) working days of identification. (5-3-03)
- b.** Each case shall be investigated to obtain specific clinical information, to learn more about the etiology, risk factors, and means of preventing the syndrome. (9-21-92)
- 44. Rocky Mountain Spotted Fever.** (11-17-83)
- a.** Each case of Rocky Mountain spotted fever shall be reported to the Department or District within three (3) working days of identification. (5-3-03)
- b.** Each report shall be investigated to confirm the diagnosis, to identify the source of infection, and to determine if control measures should be initiated. (11-17-83)
- 45. Rubella.** (11-17-83)
- a.** Each case or suspected case of rubella (including congenital rubella syndrome) shall be reported to the Department or District within one (1) working day of identification. (9-21-92)
- b.** Each report of a case or suspected case shall be investigated to confirm the diagnosis, determine the extent of the outbreak, to identify any contacts who are susceptible, pregnant women, and to document the presence of the congenital rubella syndrome. (11-17-83)
- c.** Persons diagnosed with rubella shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is close contact with children in day care facilities or other persons in schools, health care, or residential care facilities, or with women likely to be pregnant. (11-17-83)
- d.** Any person with rubella, regardless of age, shall not attend or be present in a private, parochial, charter, or public school as long as the disease is in a communicable stage. (4-5-00)
- e.** A person diagnosed with rubella shall not attend or be present in a day care facility as long as the disease is in a communicable form. (11-17-83)
- 46. Salmonellosis.** (11-17-83)
- a.** Each case of salmonellosis (including typhoid fever) shall be reported to the Department or District within one (1) working day of identification. (9-21-92)
- b.** Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of contamination. (11-17-83)
- c.** Fecally incontinent persons who are excreting Salmonella shall not attend day care facilities unless exemption is obtained from the Department or District. Any exemptions may be based on the absence of symptoms, and the hygiene of the facility and staff. (9-21-92)
- d.** Persons excreting Salmonella shall be restricted from working as food handlers, and shall not

engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care facilities or residential care facilities unless exemption is obtained from the Department. Any exemption for day care, health care, or residential care facilities may be based on the absence of symptoms and the hygiene of the facility and staff. (9-21-92)

i. The Department or authorized representative for the Department may rescind this restriction on cases other than Salmonella typhi infection provided that two (2) approved fecal specimens, collected not less than twenty-four (24) hours apart, fail to show Salmonella upon testing by a licensed laboratory. (11-17-83)

ii. Any member of a household in which there is a case of non-typhi salmonellosis may not engage in the above occupations until they produce at least one (1) negative fecal specimen for Salmonella testing on examination by a licensed laboratory. (4-5-00)

e. Identification and management of non-Salmonella typhi carriers. (11-17-83)

i. Any person who excretes Salmonella for more than one (1) year after onset is defined to be a chronic carrier. (11-17-83)

ii. Chronic carriers shall be restricted from working as food handlers, and shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care facilities or residential care facilities until Salmonella species is not identified by a licensed laboratory in any of three (3) successive approved fecal specimens collected at least seventy-two (72) hours apart. (4-5-00)

g. Identification and management of typhoid fever cases and carriers. (11-17-83)

i. Any person with typhoid fever shall remain subject to the supervision of the Department or authorized representative of the Department until Salmonella typhi is not isolated by a licensed laboratory from four (4) successive approved fecal specimens. These specimens are to be collected at least twenty-four (24) hours apart and not earlier than one (1) month after onset. (11-17-83)

ii. Any member of a household in which there is a case of salmonella typhi may not engage in the above occupations until at least two (2) fecal specimens are negative for Salmonella testing on examination by a licensed laboratory. (4-5-00)

iii. All carriers of Salmonella typhi shall abide by the typhoid fever carrier agreement. Failure to abide by the carrier agreement may cause the carrier to be isolated. (11-17-83)

(1) The typhoid carrier agreement is a written agreement between the carrier and the Department. (11-17-83)

(2) The carrier agrees to not work as a food handler, to notify the Department at once of any change in address or occupation, to report to the District immediately any cases of illness suggestive of typhoid fever in his/her family or among immediate associates, and to furnish specimens for examination in a manner prescribed by the Department. (11-17-83)

iv. Chronic carriers of typhoid fever may be released from carrier status when Salmonella typhi is not identified by a licensed laboratory in any of six (6) consecutive approved fecal specimens and urine specimens collected at least one (1) month apart. (11-17-83)

47. Severe Acute Respiratory Syndrome (SARS). (12-1-03)T

a. Each case of suspected or confirmed SARS must be reported to the Department or District within one (1) working day. (12-1-03)T

b. Each report of a case of suspected or confirmed SARS must be investigated to confirm the diagnosis, review the travel and other exposure history, identify other persons potentially at risk, and to identify the most likely source of infection. (12-1-03)T

c. Recommendations for appropriate isolation of the suspected or confirmed case will be made. (12-1-03)T

478. Shigellosis. (11-17-83)

a. Each case of shigellosis shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis and to determine the extent of the outbreak. An attempt shall be made to identify contacts, carriers, and the source of infection. (11-17-83)

c. Persons excreting *Shigella* shall not work as food handlers nor attend day care facilities. They shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care or residential care facilities unless exemption is obtained from the Department or District. In an outbreak in a facility, a cohort system may be approved. (9-21-92)

i. The Department or authorized representative of the Department may rescind this restriction provided that two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Shigella* upon testing by a licensed laboratory. (11-17-83)

ii. No member of the household in which there is a case of shigellosis may engage in any of the above-mentioned occupations unless the Department approves and at least one (1) fecal specimen is negative for *Shigella* testing on examination by a licensed laboratory. (9-21-92)

489. Smallpox. (5-3-03)

a. Each case or suspected case of smallpox shall be reported to the Department or District by telephone immediately upon identification. (5-3-03)

b. Each report of a case or suspected case shall be investigated promptly to confirm the diagnosis, to determine the extent of the outbreak, to identify the source of the infection, and to identify susceptible contacts. (5-3-03)

c. Cases or suspected cases of smallpox in health care facilities shall be placed under airborne, contact, and standard precautions until the disease is no longer in a communicable stage. (5-3-03)

d. A person who is diagnosed as having smallpox shall not engage in any occupation as long as the disease is in a communicable stage. (5-3-03)

e. A child diagnosed with smallpox shall not attend a day care facility as long as the disease is in a communicable stage. (5-3-03)

f. Any person, regardless of age, shall not attend a private, parochial, charter, or public school or attend public gatherings as long as the disease is in a communicable stage. (5-3-03)

g. In the event of an outbreak, the Department or District may exclude susceptible children and employees from day care facilities and schools where a case has been identified until adequate immunization is obtained, or the threat of further spread is contained (Section 33-512, Idaho Code). (5-3-03)

4950. Streptococcus Pyogenes, Group A, Infections Which Are Invasive Or Result In Rheumatic Fever. (11-17-83)

a. Each case of *Streptococcus pyogenes*, Group A, infection which is invasive or results in rheumatic fever shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each case shall be investigated to confirm the diagnosis, to determine if the infection is part of an

outbreak, and to identify the source of the infection. (4-5-00)

c. Infected persons should not attend day care, school, or work in health care facilities until twenty-four (24) hours has elapsed after treatment is initiated, or until the patient is no longer infectious as determined by a physician, District or the Department. (9-21-92)

501. Syphilis. (9-21-92)

a. Each case or suspected case of infectious, or recently infectious, syphilis shall be reported to the Department or District within three (3) working days of identification. Cases of late latent syphilis shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each case or suspected case of primary, secondary, or early latent syphilis shall be investigated by a representative of the Department or District after notification has been received. (9-21-92)

c. Each person diagnosed with infectious syphilis shall be required to inform their sexual contacts that they may have been exposed to a sexually transmitted infection (venereal disease), or provide sufficient information so public health officials may locate contacts and assure that each is offered prompt diagnosis and treatment (Section 39-605, Idaho Code). (4-5-00)

d. A physician may order blood tests for syphilis when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

512. Tetanus. (9-21-92)

a. Each case of tetanus shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis and to determine the immunization status of the case. (9-21-92)

523. Trichinosis. (11-17-83)

a. Each case of trichinosis shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of infection. (11-17-83)

c. Any identified or suspected source of infection shall be reported to the Department which shall immediately notify the Idaho Department of Agriculture and/or other regulatory agency. (11-17-83)

534. Toxic Shock Syndrome. (11-17-83)

a. Each case of toxic shock syndrome shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each case shall be investigated to obtain specific clinical information on the syndrome to learn more about the etiology of the syndrome, risk factors associated with the syndrome, and means of preventing the syndrome. (11-17-83)

545. Tuberculosis. (11-17-83)

a. Each case or suspected case of tuberculosis shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify contacts, associated cases, and the source of the infection. (11-17-83)

c. Restriction of cases and contacts. (11-17-83)

i. In health care facilities, persons with active pulmonary tuberculosis shall be placed under airborne precautions until they have been determined to be noninfectious by the licensed physician, the infection control committee of the facility or the Department. Patients suspected to have pulmonary tuberculosis shall be placed under airborne precautions until the diagnosis of infectious pulmonary tuberculosis has been excluded by the attending physician. (4-5-00)

ii. Patients with infectious pulmonary tuberculosis shall not engage in any occupation in which they have direct contact with students in schools, provide personal care to children in day care facilities, or provide personal care to persons confined to health care or residential care facilities until they have been determined to be noninfectious by their physician. (9-21-92)

iii. Patients with infectious pulmonary tuberculosis may not attend a school or day care facility until they have been determined to be noninfectious by their licensed physician and the Department or District. (9-21-92)

iv. Any member of the household in which there is a case of infectious tuberculosis shall not engage in any occupation in which he provides direct supervision of students in schools, personal care to children in day care facilities, or personal care to persons who are confined to health care or residential facilities, or attend a school or day care facility until he has been determined to be free from communicable tuberculosis. (9-21-92)

d. In the event that a case of communicable tuberculosis is diagnosed in an employee or patient of a health care facility, the facility shall conduct an investigation to identify contacts. The Department or District authorized representative may assist in the investigation. (9-21-92)

556. Tularemia. (11-17-83)

a. Each case of tularemia shall be reported to the Department or District within one (1) working day of identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis and to identify the source of the infection. (4-5-00)

c. Any source or suspected source of the infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture. (11-17-83)

567. Viral Or Aseptic Encephalitis And Meningitis. (4-5-00)

a. Each case of diagnosed or suspected viral or aseptic encephalitis and meningitis shall be reported within three (3) working days of identification. (5-3-03)

b. Each report of a case may be investigated to confirm the diagnosis, to identify clusters or outbreaks of the infection, and to identify the agent or source of the infection. (9-21-92)

58. West Nile Virus (WNV) Infection. (12-1-03)T

a. Each case of diagnosed west nile virus (WNV) infection must be reported to the Department or District within three (3) working days. A WNV infection will be defined as asymptomatic (determined through blood donation screening), fever, encephalitis, meningitis, meningoencephalitis, acute flaccid paralysis or other central or peripheral nervous system manifestation. (12-1-03)T

b. Each report of a case of WNV infection must be investigated to confirm the diagnosis, review any travel history, review any blood donations, and identify the most likely source of infection including exposure to vectors, blood transfusion or organ receipt. (12-1-03)T

579. Yersiniosis. (11-17-83)

a. Each case of yersiniosis shall be reported to the Department or District within three (3) working days of identification. (5-3-03)

b. Each report of a case shall be investigated to confirm the diagnosis and to identify carriers and the source of the infection. (11-17-83)

580. Extraordinary Occurrence Of Illness, Including Clusters. (4-5-00)

a. Cases, suspected cases, and clusters of extraordinary or unusual illness shall be reported to the Department or District within one (1) working day by the diagnosing person. (4-5-00)

i. Each case, suspected case, and cluster shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify the source of infection or exposure, and to determine whether there is a risk to the public warranting intervention by a public health agency. Evaluation and control measures shall be undertaken in consultation with the Department and other appropriate agencies. The Department or authorized representative of the Department may elect to investigate by conducting special studies as outlined in Section 016. (4-5-00)

ii. Extraordinary or unusual outbreaks include illnesses which may be a significant risk to the public, may involve a large number of persons, or are a newly described entity. (9-21-92)

iii. Even in the absence of a defined etiologic agent or toxic substance, clusters of unexplained acute illness and early-stage disease symptoms shall be reported to the Department or District within one (1) working day and investigated. (4-5-00)

591. Severe Reaction To Any Immunization. (9-21-92)

a. Each case or suspected case of a severe reaction to any immunization shall be reported by telephone to the Department or District within one (1) working day of identification. (9-21-92)

b. Each case or suspected case shall be investigated to confirm and to document the circumstances relating to the reported reaction. (11-17-83)

602. Food Poisoning, Foodborne Illness, and Waterborne Illness. (5-3-03)

a. Each case or suspected case of food poisoning, foodborne illness, or waterborne illness shall be reported to the Department or District within one (1) working day of identification. (5-3-03)

b. Each report of a case or suspected case of food poisoning, food borne illness, or waterborne illness may be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify the source, and to determine if actions need to be taken to prevent additional cases. (5-3-03)

643. Lead Poisoning Or Excess Lead Exposure. (9-21-92)

a. Each case of symptomatic lead poisoning or excess lead exposure as determined by a blood lead level of ten (10) micrograms or more per deciliter (10 ug/dl) of whole blood shall be reported to the Department within one (1) week of identification. (9-21-92)

b. Each case of lead poisoning or excess lead exposure may be investigated to determine the source, and to determine if actions need to be taken to prevent additional cases. (9-21-92)

021. -- 024. (RESERVED).

025. CONTROL OF REPORTABLE AND RESTRICTABLE DISEASES IN CERTAIN FACILITIES.

- 01. Day Care Facilities.** (11-17-83)
- a.** Day care reportable and restrictable diseases are those diseases that are readily transmissible among children and staff in day care facilities. (11-17-83)
- b.** Examples of day care restrictable diseases that are reportable include, but are not limited to: (11-17-83)
- i. Amebiasis; (11-17-83)
 - ii. Campylobacteriosis; (11-17-83)
 - iii. Diphtheria; (11-17-83)
 - iv. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
 - v. Giardiasis; (11-17-83)
 - vi. Hepatitis A; (9-21-92)
 - vii. Haemophilus influenzae invasive disease; (9-21-92)
 - viii. Measles; (11-17-83)
 - ix. Mumps; (11-17-83)
 - x. Neisseria meningitidis invasive disease; (9-21-92)
 - xi. Pertussis; (11-17-83)
 - xii. Pneumococcal invasive disease in children less than eighteen (18) years of age; (5-3-03)
 - xiii. Poliomyelitis; (11-17-83)
 - xiv. Rubella; (11-17-83)
 - xv. Salmonellosis; (11-17-83)
 - xvi. Severe acute respiratory syndrome (SARS); (12-1-03)T
 - xvii. Shigellosis; (11-17-83)
 - xviii. Smallpox; (5-3-03)
 - ~~xviii.~~ Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
 - ~~xix.~~ Tuberculosis; (11-17-83)
- c.** Examples of day care restrictable diseases not on the reportable list include: (11-17-83)
- i. Conjunctivitis; (11-17-83)
 - ii. Cutaneous fungal infections; (11-17-83)
 - iii. Pediculosis; (11-17-83)

- iv. Scabies; (11-17-83)
- v. Staphylococcal infections; (11-17-83)
- vi. Streptococcal pharyngeal infections; (9-21-92)
- vii. Varicella (chickenpox). (5-3-03)
- d.** A person who is diagnosed to have a day care restrictable disease shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is direct contact with children in a day care facility. (11-17-83)
- e.** A child who is diagnosed to have a day care restrictable disease shall not attend a day care facility as long as the disease is in a communicable stage. This restriction may be removed by the written certification of a licensed physician, public health nurse or school nurse that the person's disease is no longer communicable. (11-17-83)
- f.** When satisfactory measures have been taken to prevent the transmission of disease, the affected child or employee may continue to attend or to work in the day care facility if approval is obtained from the Department or District. (9-21-92)
- 02. Food Service Facilities.** (11-17-83)
- a.** A person who is diagnosed to have one (1) of the following diseases or conditions which can be transmitted from one (1) person to another through food or beverage shall not work as a food handler as long as the disease is in a communicable stage. These diseases and conditions include, but are not limited to: (11-17-83)
 - i. Amebiasis; (11-17-83)
 - ii. Campylobacteriosis; (11-17-83)
 - iii. Cholera; (11-17-83)
 - iv. Diarrhea (until common communicable causes have been ruled out); (11-17-83)
 - v. Diphtheria; (11-17-83)
 - vi. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)
 - vii. Giardiasis; (11-17-83)
 - viii. Hepatitis A; (9-21-92)
 - ix. Salmonellosis; (11-17-83)
 - x. Shigellosis; (11-17-83)
 - xi. Staphylococcal skin infections; (11-17-83)
 - xii. Streptococcal skin infections; (11-17-83)
 - xiii. Taeniasis; (11-17-83)
 - xiv. Tuberculosis (active); (11-17-83)
 - xv. Vomiting (until noninfectious cause is identified); (11-17-83)

b. The state health officer or his authorized representative may require a food handler to submit to an examination to determine the presence of a disease that can be transmitted by means of food when there is reasonable cause to believe the food handler is afflicted with a disease listed in this section. (11-17-83)

c. If the person in charge of the eating or drinking establishment has reason to suspect that any employee has a disease listed in Subsection 025.02.a. that is in a communicable form, he must immediately notify the Department or District and obtain guidance on proper actions needed to protect the public. (4-5-00)

03. Schools. (11-17-83)

a. School reportable and restrictable diseases are those diseases that are readily transmissible among students and staff in schools. (11-17-83)

b. Examples of school restrictable diseases that are reportable include, but are not limited to: (11-17-83)

i. Diphtheria; (11-17-83)

ii. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); (4-5-00)

iii. Haemophilus influenzae invasive diseases; (9-21-92)

iv. Measles; (11-17-83)

v. Mumps; (11-17-83)

vi. Neisseria meningitidis invasive disease; (9-21-92)

vii. Pertussis; (11-17-83)

viii. Plague; (11-17-83)

ix. Pneumococcal invasive disease in children less than eighteen (18) years of age; (5-3-03)

x. Rubella; (11-17-83)

xi. Severe acute respiratory syndrome (SARS); (12-1-03)T

xii. Shigellosis; (11-17-83)

xiii. Smallpox; (5-3-03)

~~xiv.~~ Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)

xiv. Tuberculosis (active). (11-17-83)

c. Examples of school restrictable diseases not on the reportable list include: (11-17-83)

i. Conjunctivitis; (11-17-83)

ii. Cutaneous fungal infections; (11-17-83)

iii. Pediculosis; (11-17-83)

iv. Scabies; (11-17-83)

- v. Staphylococcal skin infections; (11-17-83)
- vi. Streptococcal pharyngeal infections; (9-21-92)
- vii. Varicella (chickenpox). (5-3-03)
- d.** Any person who is diagnosed to have a school restrictable disease shall not engage, as long as the disease is in a communicable stage, in any occupation that involves direct contact with students in a private, parochial charter, or public school. (4-5-00)
- e.** Any person who is diagnosed with or reasonably suspected to have a school restrictable disease shall not attend a private, parochial, charter, or public school as long as the disease is in a communicable stage. (4-5-00)
- f.** A licensed physician, public health nurse, school nurse or other person authorized by the Department may determine when a person with a school restrictable disease can no longer transmit the disease to others. (11-17-83)
- g.** A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in his opinion, such closing is related to a communicable disease. (4-5-00)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.02.14 - RULES GOVERNING CONSTRUCTION AND OPERATION
OF PUBLIC SWIMMING POOLS IN IDAHO**

DOCKET NO. 16-0214-0301

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 Sections 56-1003 and 56-1007, 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 September 3, 2003, Administrative Bulletin, Volume 03-9, pages 99 and 100.

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 Section 56-1007, Idaho Code. Fees being imposed in this chapter have been part of 16.05.05, "Rules Governing Fees for Health and Environmental Operating Permits, Licenses, and Inspection Services" that is being repealed in Docket 16-0505-0301. The fee amount is not being changed but is being moved into IDAPA 16.02.14.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Elke Shaw-Tulloch at (208) 334-5950.

DATED this 26th day of September, 2003.

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IDAPA 16, TITLE 02, CHAPTER 14

**RULES GOVERNING CONSTRUCTION AND OPERATION
OF PUBLIC SWIMMING POOLS IN IDAHO**

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-9, September 3, 2003, pages 99 and 100.](#)

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.02.19 - RULES GOVERNING FOOD SAFETY AND SANITATION
STANDARDS FOR FOOD ESTABLISHMENTS**

DOCKET NO. 16-0219-0301 - (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 Sections (s)37-121 and 39-1603, 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, page 38.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mary Valentine at (208) 334-5936.

DATED this 19th day of September, 2003.

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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16, TITLE 02, CHAPTER 19

**RULES GOVERNING FOOD SAFETY AND SANITATION
STANDARDS FOR FOOD ESTABLISHMENTS**

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 38.](#)

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

16.02.19 - FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

DOCKET NO. 16-0219-0302 - (CHAPTER REWRITE)

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) 37-121 and 39-1603, 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 with a modification to the 2001 Food Code to add Section 201-Assignment of Person in Charge. This addition is being made in response to public comments received during public hearings and the written comment period. The original text of the proposed rule was published in the August 6, 2003 Administrative Bulletin, Volume 03-8, pages 39 through 53.

The text of 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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mary Valentine at (208) 334-5936.

DATED this 19th day of September, 2003.

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IDAPA 16, TITLE 02, CHAPTER 19

RULES GOVERNING FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

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 39 through 53](#).

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0219-0302

201. ASSIGNMENT OF PERSON IN CHARGE.

Modification to Section 2-101.11. The license holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present during all hours of food preparation and service. ()

2012. -- 209. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-0302

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The temporary rule effective date for Sections 346 through 349 was misprinted and the effective date of these rules should be July 1, 2003 as stated in the original notice. The text is not being amended, only the effective date is being changed. The original text of the proposed rules was published in the October 1, 2003 Administrative Bulletin, Volume 03-10, pages 226 through 229.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tiffany Kinzler at (208) 334-6540.

DATED this 23rd day of October, 2003.

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IDAPA 16, TITLE 03, CHAPTER 01

RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN

There are substantive changes from the proposed rule text.

**Sections 346 through 349 have changes in the effective date,
the correct effective date is July 1, 2003.**

**The text of the proposed rule was published in the Idaho Administrative
Bulletin, [Volume 03-10, October 1, 2003, pages 226 through 229.](#)**

**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
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-0301
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective dates of the amendments to the temporary rule are April 1, 2003 and July 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 39-106(1)(a), 56-202, 56-203, and 56-1004, Idaho Code.

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

Section 204 regarding citizenship and qualified non-citizen requirements was amended to reflect the recommendations received from the federal Food and Nutrition Service (FNS). Most of the existing text was deleted and citations to the governing sections from the Code of Federal Regulations and from the Farm Bill (Public Law 107-171, "Farm Security and Rural Investment Act of 2002") were added.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003, Administrative Bulletin, Volume 03-10, pages 230 through 242.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Phil Gordon at (208) 334-5818.

DATED this 14th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 04

RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 230 through 242.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0304-0301

SECTION 204 (Entire Section)

204. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.

To be eligible for Food Stamps, an individual must ~~be a member of one (1) of the groups listed in Subsections 204.01 through 204.14 of this rule~~ meet the requirements specified in 7 CFR 273.4, "Citizenship and alien status" and in accordance with Public Law 107-171 "Farm Security and Rural Investment Act of 2002," Title IV - Nutrition Programs, Subtitle D - Miscellaneous, Section 4401, regarding the partial restoration of benefits to legal immigrants.

~~(4-1-03)F(4-1-03)T~~

- ~~01. U.S. Citizen. A U.S. Citizen; or (4-1-03)F~~
- ~~02. U.S. National. A U.S. National; or (4-1-03)F~~
- ~~03. Full-Time Active Duty U.S. Armed Forces Member. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who is currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member; or (4-1-03)F~~
- ~~04. Veteran Of The U.S. Armed Forces. A qualified non-citizen as defined in 8 U.S.C. 1641 (b) or (c) who was honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran; or (4-1-03)F~~
- ~~05. Refugees And Others Fleeing Persecution. A non-citizen who was:~~ (4-1-03)F
- ~~a. Admitted into the U.S. as a refugee under 8 U.S.C. 1157 (including those who have adjusted to lawful permanent resident status); or (4-1-03)F~~
- ~~b. Granted asylum under 8 U.S.C. 1158 (including those who have adjusted to lawful permanent resident status); or (4-1-03)F~~

~~e. Granted withholding of deportation or removal under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208 (including those who have adjusted to lawful permanent resident status); or (4-1-03)F~~

~~d. Admitted into the U.S. as an Amerasian immigrant under Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Section 101(e) of Public Law 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended); or (4-1-03)F~~

~~e. Granted status as a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Assistance Act of 1980 (including those who have adjusted to lawful permanent resident status); or (4-1-03)F~~

~~06. **Qualified Non-Citizen For At Least Five Years.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), who has had a qualified non-citizen status for at least five (5) years; or (4-1-03)F~~

~~07. **Lawful Permanent Resident (LPR) with Forty Quarters Of Work History.** A lawful permanent resident (LPR) who has forty (40) quarters of work history under Title II of the Social Security Act, or can be credited with that work history under 8 U.S.C. 1645; or (4-1-03)F~~

~~08. **Qualified Non-Citizens Receiving Disability-Related Assistance.** Qualified non-citizens, as defined in 8 U.S.C. 1641(b) or (c), who are receiving benefits or assistance for blindness or disability (within the meaning of Section 3(r) of the Food Stamp Act of 1977 (7 U.S.C. 2012(r))); or (4-1-03)F~~

~~09. **Qualified Non-Citizen Children.** Qualified non-citizens, as defined in 8 U.S.C. 1641(b) or (c), who are under age eighteen (18) are eligible for food stamps regardless of their date of entry into the United States; or (10-1-03)F~~

~~10. **Qualified Non-Citizen Seniors.** Qualified non-citizens, as defined in 8 U.S.C. Section 1641(b) or (c), who on August 22, 1996 were age sixty five (65) or over and were lawfully residing in the United States; or (4-1-03)F~~

~~11. **American Indian Born In Canada.** An American Indian born in Canada under 8 U.S.C. 1359; or (4-1-03)F~~

~~12. **American Indian Born Outside The U.S.** An American Indian born outside of the U.S., and is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e); or (4-1-03)F~~

~~13. **Certain Hmong And Highland Laotians.** Hmong and Highland Laotians who were: (4-1-03)F~~

~~a. Members of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975; or (4-1-03)F~~

~~b. The spouse or unmarried dependent child of such an individual; or (4-1-03)F~~

~~e. The unremarried surviving spouse of such an individual who is deceased; or (4-1-03)F~~

~~14. **Victim Of Severe Form Of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13), who meets one (1) of the following: (4-1-03)F~~

~~a. Is under the age of eighteen (18) years; or (4-1-03)F~~

~~b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (4-1-03)F~~

~~i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has~~

~~not been denied, or~~

~~(4-1-03)F~~

~~ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons.~~

~~(4-1-03)F~~

SECTION 616 (Entire Section)

616. DECREASES OR CLOSURE OF FOOD STAMPS.

If a change on which the department is required to act results in a decrease or closure of Food Stamps, the Department must provide notice. The change must be effective the first month following timely notice, unless the change does not require ten (10) day advance notice. If the household does not respond to the request for proof, or does respond but refuses to provide sufficient information or fails to provide required proof of a change affecting eligibility by the requested date, send a closure notice. The notice must explain the reason for the closure. The notice must advise the household of the need to submit a new application if it wishes to continue participating in the program. If the household fails to provide required proof of a change affecting Food Stamp amount by the requested date, and the change would result in decreased benefits, no deduction is allowed or benefits are decreased. If the household provides the change verification after the date requested, act on the change as if it was an increase. The effective date of the change is the month after the month the change is verified.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0305-0302

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The temporary rule and the pending rule are being amended to address comments received during the public comment period of the proposed rulemaking. Resources are being clarified in Section 200. Section 277 and 436 are being amended to clarify how real estate contracts are considered for income and resources when determining Medicaid eligibility. Section 788 is being amended to clarify age for the aged and disabled waiver. Section 841 is being amended to be clarify an asset transfer penalty exception.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule.

Only the sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the October Administrative Bulletin, Volume 03-10, pages 243 through 250.

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

DATED this 7th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 05

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

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 243 through 250.

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 FOR DOCKET 16-0305-0302

SECTION 200 (Entire Section)

200. RESOURCES DEFINED.

Resources are cash, personal property, real property, and notes receivable ~~on real property~~. A participant, or spouse, must have the right, authority, or power to convert the resource to cash. The participant must have the legal right to use the resource for support and maintenance. ~~(10-1-03)F~~(10-1-03)T

SECTION 277 (Entire Section)

273. -- 277. (RESERVED).

277. EXCLUDED REAL ESTATE CONTRACT.

The principal balance of a real estate contract is excluded from resources of a participant in long-term care when the Department determines it is in the Department's best interest to exclude the contract. The determination by the Department of its best interest is final. (10-01-03)T

SECTION 436 (Entire Section)

436. REAL ESTATE CONTRACT INCOME.

Payments received on the interest of a negotiable real estate contract are unearned income for Medicaid eligibility. Payments received on the principal of a negotiable real estate contract are a resource for Medicaid eligibility. Payments received on a nonnegotiable real estate contract are unearned income. Principal and interest payments received on an excluded real estate contract of a long-term care participant are unearned income for patient liability. ~~(10-1-03)F~~(10-1-03)T

SECTION 788 (Entire Section)

788. AGED AND DISABLED (A&D) WAIVER.

To be eligible, the participant must be disabled or at least eighteen (18) years of age and less than sixty-five (65) years of age and need nursing facility level of care as provided in IDAPA 16.03.09 "Rules Governing the Medical Assistance Program". ~~(7-1-03)~~(10-1-03)T

SUBSECTION 841.10 (Partial Section)

841. PENALTY EXCEPTIONS FOR ASSET TRANSFERS.

A participant is not subject to the asset transfer penalty for taking any action described in Subsections 841.01 through 841.14 of these rules. (10-1-03)T

10. Medicaid Qualification Not The Intent. The participant or spouse proves the assets were transferred exclusively for a purpose other than to qualify for Medicaid or to avoid recovery. ~~(10-1-03)~~(10-1-03)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

DOCKET NO. 16-0308-0302

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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1004(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and 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 October 1, 2003 Administrative Bulletin, Volume 03-10, pages 251 and 252.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tiffany Kinzler at (208) 334-6540.

DATED this 7th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 08

RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

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 03-10, October 1, 2003, pages 251 and 252.](#)

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. 16-0309-0307

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendments to the temporary rule is October 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

In response to comments received in the hearings held in October, and comments received from the public and Department staff, minor changes have been made for clarification.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the September 3, 2003, Administrative Bulletin, Volume 03-9, pages 106 through 125.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mary Wells at (208) 364-1840 or Jean Christensen at (208) 364-1973.

DATED this 19th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-9, September 3, 2003, pages 106 through 125.](#)

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0309-0307

SUBSECTIONS 11804.h. and 118.05 (Partial Section)

118. TARGETED DEVELOPMENTAL DISABILITIES SERVICE COORDINATION.

The Department will purchase targeted case management, hereafter referred to as Targeted Service Coordination (TSC) for Medicaid-eligible participants with developmental disabilities when authorized through the Department's prior authorization process in IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services," and provided by an organized service coordination provider agency who has entered into a written provider agreement with the Department. The purpose of these services is to assist eligible individuals to obtain needed health, educational, vocational, residential, and social services. (10-1-03)T

04. TSC Provider Staff Qualifications. All individual service coordinators, paid plan developers, and paid plan monitors must be employees or contractors of an organized provider agency that has a valid provider agreement with the Department. The employing entity will supervise the individual service coordinators, paid plan developers, and paid plan monitors and assure that they meet the following qualifications: (10-1-03)T

h. Paraprofessionals may be used to assist in the implementation of the plan of service. They may not be paid plan developers or plan monitors. Paraprofessionals must meet the following qualifications: (10-1-03)T

i. Be eighteen (18) years of age and have a high school diploma or the equivalent (G.E.D.); (10-1-03)T

ii. Be able to read and write at a level commensurate with the general flow of paperwork and forms; (10-1-03)T
and

iii. Complete a training program developed by the Department and be working under the supervision of a fully qualified targeted service coordinator. (10-1-03)T

iv. All paraprofessionals must satisfactorily complete the Department's criminal history check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (10-1-03)T

05. Participant's Choice. The participant may choose to receive or not to receive TSC services. The participant has the choice of: (10-1-03)T

a. Developing and monitoring his own plan of service, with the choice of still using the services ~~coordination~~ described in Subsection 118.02.a. of these rules; or (10-1-03)T

b. Using the targeted service coordinator for plan development, monitoring, and service coordination; or (10-1-03)T

c. Selecting a non-paid plan developer, and receiving plan monitoring and service coordination by a targeted service coordinator; or (10-1-03)T

d. Selecting a non-paid plan developer and a non-paid plan monitor and not receiving service coordination. (10-1-03)T

SECTION 120, SUBSECTIONS 120.04 and 120.04.c. through 120.04.g. (Partial Section)

120. REHABILITATIVE SERVICES -- DEVELOPMENTAL DISABILITIES AGENCIES.

Under 42 CFR 440.130(d), the Department will pay for rehabilitative services including medical or remedial services provided by facilities that have entered into a provider agreement with the Department and are licensed as developmental disabilities agencies by the Department. Services provided by a developmental disabilities agency to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements. (10-1-03)T

04. ~~Treatment~~ Therapy Services. Developmental disabilities agency services must be recommended by a physician or other practitioner of the healing arts and provided in accordance with objectives as specified in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies". The therapy services listed in Subsections 120.04.a. through 120.04.f. of this rule may be prior authorized for up to thirty (30) hours per week. These ~~treatment~~ therapy services listed below in Subsections 120.04.a. through 120.04.e. of this rule and in combination with community supported employment services must not be authorized for more than forty (40) hours per week. Covered treatment services include the following therapies: (10-1-03)T

c. Speech and Hearing Therapy Services. Speech and hearing therapy services are limited to two hundred fifty (250) treatment sessions per calendar year. Speech and hearing therapy includes individual or group therapy. (10-1-03)T

d. Physical Therapy. Physical therapy services are limited in accordance with Section 140 of these rules. Physical therapy includes individual or group therapy. (10-1-03)T

e. Occupational Therapy. Occupational therapy includes individual occupational therapy and group occupational therapy. Developmental and occupational therapy services alone or in combination are limited to a maximum of thirty (30) hours per week. (10-1-03)T

f. Intensive Behavioral Intervention (IBI). Intensive behavioral intervention includes individual intensive behavioral intervention and intensive behavioral intervention consultation. (10-1-03)T

g. Collateral Contact. Collateral contact is contact with individuals directly involved with the participant receiving the service to promote understanding of each person's therapeutic objectives and consistency among persons having direct contact with the program participant. Such contacts will be included in the limitations

~~of hours of treatment service reimbursed by Medicaid. Contacts with such persons for the purpose of future placement, interagency and intra-agency case monitoring, staffings and social service activities are not allowable for Medicaid payment.~~ is consultation or treatment direction about the participant to a significant other in the participant's life and may be conducted face-to-face or by telephone contact. Collateral contact for general staff training, regularly scheduled parent-teacher conferences, general parent education, or for treatment team meetings, even when the parent is present, is not reimbursable. ~~(10-1-03)F~~(10-1-03)T

SUBSECTIONS 143.05.a.i.(4) and 143.05.l.iv. (Partial Section)

143. WAIVER SERVICES FOR ADULTS WITH DEVELOPMENTAL DISABILITIES AND ISSH WAIVER PARTICIPANTS.

Under 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible participants to prevent unnecessary institutional placement, provide for the greatest degree of independence possible, enhance the quality of life, encourage individual choice, and achieve and maintain community integration. For a participant to be eligible, the Department must find that the participant requires services due to a developmental disability that impairs his mental or physical function or independence, is capable of being maintained safely and effectively in a non-institutional setting, and would, in the absence of such services, need to reside in an ICF/MR.

(10-1-03)T

05. Provider Qualifications. All providers of waiver services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (10-1-03)T

a. Residential habilitation services must be provided by an agency that is certified by the Department as a Residential Habilitation Agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies," and is capable of supervising the direct services provided. Individuals who provide twenty-four (24) hour services in their own home must be certified by the Department as a certified family home and must be affiliated with a Residential Habilitation Agency. The Residential Habilitation Agency provides oversight, training, and quality assurance to the certified family home provider. Individuals who provide residential habilitation services in the home of the participant (supported living), must be employed by a Residential Habilitation Agency. Providers of residential habilitation services must meet the following requirements: (10-1-03)T

i. Direct service staff must meet the following minimum qualifications: (10-1-03)T

(4) ~~Pass Satisfactorily complete~~ a criminal background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". When residential habilitation services are provided in a certified family home, all ~~adults~~ individuals eighteen (18) years of age or older living in the home must ~~pass satisfactorily complete~~ a criminal history check in accordance with IDAPA 16.05.06; ~~(10-1-03)F~~(10-1-03)T

l. Providers of adult day care services must be employed by or be affiliated with the residential habilitation agency that provides program coordination for the participant if the service is provided to a single participant in a certified family home other than the participant's primary residence, be capable of supervising direct services, provide services as identified on the plan of service, provide care and supervision identified on the participant's residential habilitation plan, and must meet the following minimum qualifications: (10-1-03)T

iv. ~~Pass Satisfactorily complete~~ a criminal history check ~~as required by~~ in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks"; ~~(10-1-03)F~~(10-1-03)T

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

DOCKET NO. 16-0309-0310

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective dates of the amendments to the temporary rule are January 1, 2003, and November 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. In response to comments received from the public and Department staff, minor changes have been made for clarification.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003, Administrative Bulletin, Volume 03-10, pages 275 through 286.

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

DATED this 19th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-10, October 1, 2003, pages 275 through 286.](#)

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0309-0310

SECTION 560 (Partial Section)

560. SCHOOL-BASED HEALTH-RELATED SERVICES PROVIDED BY IDAHO PUBLIC SCHOOL DISTRICTS AND THE IDAHO INFANT TODDLER PROGRAM UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).

The Department will pay school districts, including charter schools and the Idaho Infant Toddler Program, for covered rehabilitative and health-related services under IDAPA 16.03.09, "Rules Governing the Medical Assistance Program". Services include medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code, that have entered into a provider agreement with the Department. Under the Individuals with Disabilities Act (IDEA), Part C, the Infant Toddler Program serves children from birth until their third birthday or until the beginning of the school year of their third birthday. Idaho public school districts provide services to students three (3) years of age through the semester of their twenty-first birthday. For children who are enrolled in the Infant Toddler Program, these rules apply only to services delivered by the Department or services delivered under a contractual agreement with the Idaho Infant Toddler Program, for which the Department will bill and reimburse the service provider. ~~(1-1-03)F~~(1-1-03)T

SUBSECTION 561.04.b. and 561.05 (Partial Section)

561. MEDICAID ELIGIBILITY.

To be eligible for medical assistance reimbursement for covered services, school districts and the Infant Toddler Program must ensure the student is: (1-1-03)T

04. Educational Disability. (1-1-03)T

b. A child from birth to three (3) years of age, who has been identified as needing early intervention services due to a developmental delay or disability ~~under~~ or who meets the eligibility criteria of the Idaho Infant Toddler Program; ~~(1-1-03)F~~(1-1-03)T

05. Individualized Education Program (IEP) And Other Service Plans. Covered by a current Individualized Education Program (IEP), Individualized Family Service Plan (IFSP), or Services Plan (SP), developed within the previous three hundred sixty-five (365) days which indicates the need for one (1) or more medically necessary health-related services and lists all the Medicaid reimbursable services for which the school district or agency is requesting reimbursement; and ~~(1-1-03)F~~(1-1-03)T

SUBSECTION 562.02 (Partial Section)

562. SERVICE-SPECIFIC ELIGIBILITY.

In addition to meeting the Medicaid eligibility requirements in Section 561 of these rules, Psychosocial Rehabilitation (PSR), Developmental Therapy, and Intensive Behavioral Intervention (IBI) have additional eligibility requirements. (1-1-03)T

02. Developmental Therapy. To be eligible for developmental therapy, the student must meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the Developmental Disabilities Determination Checklist available online at: <http://www.sde.state.id.us/SpecialEd/medicaid>. ~~(1-1-03)T~~(1-1-03)T

SUBSECTION 563.04 (Partial Section)

563. EVALUATION AND DIAGNOSTIC SERVICES.

Evaluations to determine eligibility or the need for health-related services may be reimbursed even if the student is not found eligible for health-related services. Evaluations completed for educational services only cannot be billed. Evaluations completed must: (1-1-03)T

04. Recommend Interventions. Include ~~Recommend~~ interventions to address each need. ~~(4-5-00)~~(1-1-03)T

SECTION 564 (Partial Section)

564. REIMBURSABLE SERVICES.

School districts and Infant Toddler programs may bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other practitioner of the healing arts licensed and approved by the state of Idaho to make such recommendations or referrals for the Medicaid services for which the school district, ~~or other educational agency~~ charter school, or Infant Toddler Program is seeking reimbursement. ~~(1-1-03)T~~(1-1-03)T

04. Medical Equipment And Supplies. Medical equipment and supplies that are covered by Medicaid must be ordered by a physician and prior authorized, based on medical necessity, in order to be billed. Authorized items must be used at school or for the Infant Toddler Program at the location where the service is provided. Equipment that is too large or unsanitary to transport from home to school may be covered if prior authorized. The equipment and supplies must be used for the student's exclusive use and transfer with the student if the student changes schools. Equipment no longer usable by the student, may be donated to the school or Infant Toddler Program by the student. ~~(1-1-03)T~~(1-1-03)T

SUBSECTION 569.03, 569.08, and 569.11.f. (Partial Section)

569. PROVIDER STAFF QUALIFICATIONS.

Medicaid will only reimburse for services provided by qualified staff. See Section 574 of these rules for the limitations and requirements for paraprofessional service providers. The following are the minimum qualifications for professional providers of covered services: (1-1-03)T

03. Developmental Therapy And Evaluation. Must be provided by or under the direction of a developmental specialist, as set forth in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies". Certified special education teachers are not required to take the Department-approved course indicated in IDAPA 16.04.11 and be certified as a Developmental Specialist, Child. Only those school personnel who are working under a

Letter of Authorization or as a Specialty Consultant must meet the certification requirements in IDAPA 16.04.11.
~~(1-1-03)F~~(1-1-03)T

08. Physical Therapy And Evaluation. Must be provided by an individual qualified and licensed as a physical therapist to practice in Idaho. ~~(1-1-03)F~~(1-1-03)T

11. Psychosocial Rehabilitation. Must be provided by a: (11-1-03)T

f. Licensed masters social worker, licensed clinical social worker, or licensed social worker;
~~(1-1-03)F~~(11-1-03)T

SUBSECTION 575.04 (Partial Section)

575. PAYMENT FOR SERVICES.

Payment for health-related services provided by school districts and Infant Toddler programs must be in accordance with rates established by the Department. (1-1-03)T

04. Contracted Providers. ~~A contracted provider of the school program may not submit a separate claim to Medicaid as the performing provider for services provided under the school-based program and codes. A When a school program contracts with a service provider to deliver services identified on the plan, the school program must bill Medicaid for the contracted services. The contracted service provider of a school program must accept the payment from Medicaid as payment in full and must not bill a Medicaid or the Medicaid participant for any portion of any charges.~~
~~(1-1-03)F~~(1-1-03)T

SUBSECTIONS 577.02 and 577.04.b. (Partial Section)

577. REQUIREMENTS FOR COOPERATION WITH AND NOTIFICATION OF PARENTS AND AGENCIES.

Each school district or Infant Toddler Program billing for Medicaid services must act in cooperation with students' parents and with community and state agencies and professionals who provide like Medicaid services to the student. (1-1-03)T

02. Notification To Primary Care Physician. School districts and Infant Toddler programs must request the name of the student's primary care physician from the parent or guardian so the school program can share health-related information with the physician with written consent from the parent or guardian. The following information must be sent to the student's primary care physician: ~~(1-1-03)F~~(1-1-03)T

04. Parental Consent To Release Information. School districts and Infant Toddler programs: (1-1-03)T

b. Must document the parent's denial of consent if the parent refuses to consent to the release of information regarding education-related services, ~~and~~ including release of the name of the student's primary care physician. ~~(1-1-03)F~~(1-1-03)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0303

NOTICE OF RULEMAKING - PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 and 56-117, Idaho Code.

DESCRIPTIVE SUMMARY: The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. The pending rules are being amended to clarify that no occupancy adjustment will be made against costs that are used to calculate the property rate rental, but adjustments will be made against all other property costs. Section 351 was originally proposed to be deleted, but is being amended to state all financial reports are subject to audit. Section 454 is being amended to clarify the Department will send a notice with the preliminary calculation for the DSH payment by July 15 and the hospital may file an amended survey within 30 days of receiving the notice.

Only sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003 Administrative Bulletin, Volume 03-10, pages 287 through 292.

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

DATED this 13th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 287 through 292.

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.

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

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0310-0303

SECTION 123 and SUBSECTION 123.01 (Partial Section)

123. OCCUPANCY ADJUSTMENT FACTOR.

In order to equitably allocate fixed costs to the Medicaid patients in cases where a facility is not maintaining reasonable occupancy levels, an adjustment will be made. No occupancy adjustment will be made against ~~property reimbursement paid in lieu of the costs that are used to calculate the property rental rate; however adjustment will be made against all other~~ property costs. The adjustment will be made as follows: (1-4-85)()

01. Occupancy Levels. If a facility maintains an average occupancy of less than eighty percent (80%) of a facility's capacity, the total property costs not including cost paid under the property rental rate, will be prorated based upon an eighty percent (80%) occupancy rate. Property costs and property rental rates are defined in Section 004 of these rules. The facility's average occupancy percentage will be subtracted from eighty percent (80%) and the resultant percentage will be taken times the total fixed costs to determine the nonallowable fixed costs. (1-1-82)()

SECTION 351 (Entire Section)

351. AUDIT PRINCIPLE.

~~All financial reports will be subject to audit in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.05.02, "Rules Governing Audits of Providers"~~ All financial reports will be subject to audit. (4-28-89)()

SUBSECTION 454.01 (Partial Section)

454. ADJUSTMENT FOR DISPROPORTIONATE SHARE HOSPITALS (DSH).

All hospitals serving a disproportionate share of low income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment. (7-1-97)

01. DSH Survey Requirements. ~~On or before January 31, of each calendar year, the Department will send each hospital a DSH Survey. Each hospital shall return the DSH Survey on or before May 31 of the same calendar year. A hospital shall not be entitled to a DSH payment if the hospital fails to return the DSH Survey by the May 31 deadline without good cause as determined by the Department. From the DSH Survey and Department data, payments distributing the state's annual DSH allotment amount will be made by September 30 of the same calendar year.~~ The Department will send each hospital a DSH survey on or before January 31 of each calendar year. The DSH survey must be returned to the Department on or before May 31 of the same calendar year. A hospital will not receive a DSH payment if the survey is not returned by the deadline, unless good cause is determined by the Department. No later than July 15 of each calendar year, the Department must notify each hospital of their calculated DSH payment and notify each hospital of its preliminary calculated distribution amount. A hospital may file an amended survey to complete, correct, or revise the original DSH survey by submitting the amended survey and supporting documentation to the Department no later than thirty (30) days after the notice of the preliminary DSH calculation is mailed to the hospital. The state's annual DSH allotment payment will be made by September 30 of the same calendar year based on the final DSH surveys and Department data. (7-1-97)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.13 - PRIOR AUTHORIZATION FOR BEHAVIORAL HEALTH SERVICES
DOCKET NO. 16-0313-0301
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

In response to comments received in the hearings held in October, and comments received from the public and Department staff, additions and corrections have been made to the definitions section of this chapter of rules and other minor changes have been made for clarification.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule.

Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the September 3, 2003, Administrative Bulletin, Volume 03-9, pages 126 through 137.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mary Wells at (208) 364-1840 or Jean Christensen at (208) 364-1973.

DATED this 19th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 13

PRIOR AUTHORIZATION FOR BEHAVIORAL HEALTH SERVICES

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 126 through 137.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0313-0301

SUBSECTION 001.02 (Partial Section)

001. TITLE, POLICY AND SCOPE.

02. Policy And Scope. The policy is to assure the provision of the right care, in the right place, at the right price, and with the right outcomes in order to enhance health and safety, and to promote participants' rights, self-determination, and independence. Prior authorization involves the assessment of the need for services, development of a budget, development of a plan of services, prior approval of services, and a quality improvement program. Services are reimbursable if they are identified on the authorized plan of service and are consistent with the purpose and rule for prior authorization as well as rules for the specific service. The implementation process for prior authorization of behavioral health will begin for new persons with their initial plans and for persons with existing plans at their annual plan date. Implementation of these new authorization processes will take one (1) full year to complete, beginning with annual plans expiring in March of 2004 and ending with annual plans expiring in February 2005. Persons that have not transitioned into the new prior authorization process will use the process in effect as of September 30, 2003, until their annual plan expires and comes up for annual review using the new processes. The scope of these rules defines prior authorization for the following Medicaid behavioral health services for adults:

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

SUBSECTION 003.01 (Partial Section)

003. RECONSIDERATIONS, COMPLAINTS, AND ADMINISTRATIVE APPEALS.

01. Reconsideration. Participants with developmental disabilities who are adversely affected by a Department decision regarding program eligibility and authorization of services under these rules may request a reconsideration within thirty (30) days from the date the decision was mailed. The reconsideration must be performed by an interdisciplinary team as determined by the Department with at least one (1) individual who was not involved in the original decision. The reviewers must consider all information and must issue a written decision within fifteen (15) days of receipt of the request.

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

SUBSECTIONS 010.03 through 010.13 (Partial Section)

010. DEFINITIONS (A THROUGH L).

For the purposes of these rules the following terms are used as defined below: (10-1-03)T

~~03. Assessor. A contractor that has no financial interest in the provision of Medicaid behavioral health care services and is responsible for conducting an assessment for services as well as authorization of services. (10-1-03)T~~

043. Budget. The level of financial support that corresponds to a participant's assessed needs, level of support determined by the SIB-R, and the past three (3) years' expenditures, when available. Using this information, the budget is negotiated with the plan developer, the participant, and the assessor. (10-1-03)T(10-1-03)T

~~05. Care Manager. A Department employee who conducts clinical evaluations for the completion of exception reviews, concurrent reviews, crisis authorizations, and reconsiderations of decisions. (10-1-03)T~~

064. Clinical Review. A process of professional review that validates the need for continued services. (10-1-03)T

~~075. Community Crisis Support.~~ Intervention for participants who are at risk of losing housing, employment or income, or who are at risk of incarceration, physical harm, family altercations or other emergencies. (10-1-03)T

086. Concurrent Review. A clinical review to determine the need for continued prior authorization of services. (10-1-03)T

097. Customer. Any stakeholder with the exception of the participant. (10-1-03)T

~~108. Department.~~ The Idaho Department of Health and Welfare. (10-1-03)T

~~109. Developmental Disability.~~ A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person that appears before the age of twenty-two (22) years of age and: (10-1-03)T

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other conditions found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (10-1-03)T

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: (10-1-03)T

i. Self-care; (10-1-03)T

ii. Receptive and expressive language; (10-1-03)T

iii. Learning; (10-1-03)T

iv. Mobility; (10-1-03)T

v. Self-direction; (10-1-03)T

vi. Capacity for independent living; or (10-1-03)T

vii. Economic self-sufficiency; and (10-1-03)T

c. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of life-long or extended duration and individually planned and coordinated. (10-1-03)T

- ~~120.~~ **Exception Review.** A clinical review of a plan that falls outside the established standards. (10-1-03)T
- ~~13.~~ **Independent Assessment Provider (IAP) Or Assessor.** See definition for Assessor in Section 010 of these rules. (10-1-03)F
- 11. Interdisciplinary Team.** For purposes of these rules, the interdisciplinary team is a team of professionals, determined by the Department, that reviews requests for reconsideration. (10-1-03)T
- ~~142.~~ **Intermediate Care Facility For Persons With Mental Retardation (ICF/MR).** An intermediate care facility whose primary purpose is to provide habilitative services and maintain optimal health status for individuals with mental retardation or persons with related conditions. (10-1-03)T
- ~~153.~~ **Level Of Support.** An assessment score derived from the SIB-R that indicates types and amounts of services and supports necessary to allow the individual to live independently and safely in the community. (10-1-03)T

SUBSECTIONS 011.03 through 011.19 (Partial Section)

011. DEFINITIONS (M THROUGH Z).
For the purposes of these rules the following terms are used as defined below: (10-1-03)T

~~03.~~ **Person-Centered Planning Process.** ~~A planning team of family and individuals who are significant to the participant and who collaborate with the participant to develop the plan of service. This team is convened and facilitated by a plan developer. A meeting facilitated by the plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service.~~ (10-1-03)F(10-1-03)T

~~04.~~ **Person-Centered Planning Team.** ~~The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process.~~ (10-1-03)T

~~045.~~ **Plan Developer.** A paid or nonpaid person identified by the participant who is responsible for developing one (1) plan of service and subsequent addenda that cover all services and supports, based on a person-centered planning process. (10-1-03)T

~~056.~~ **Plan Monitor.** A person who oversees the provision of services on a paid or non-paid basis. ~~The plan developer is the plan monitor unless there is a Service Coordinator, in which case the Service Coordinator assumes both roles.~~ (10-1-03)F(10-1-03)T

~~067.~~ **Plan Monitor Summary.** A summary that provides information to evaluate plans and initiate action to resolve any concerns. The plan monitor must complete a plan monitor summary when the plan has been in effect for six (6) months and at the annual person-centered planning process. The summary is based on the provider status reviews referred to in Subsection 300.06 of these rules. The plan monitor will use the provider information to evaluate plans and initiate action to resolve any concerns. (10-1-03)T

~~078.~~ **Plan Of Service.** An initial or annual plan that identifies all services and supports based on a person-centered planning process. Plans are authorized annually every three hundred sixty-five (365) days. (10-1-03)T

~~089.~~ **Prior Authorization (PA).** A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by these rules. (10-1-03)T

~~0910.~~ **Provider Status Review.** The written documentation that identifies the participant's progress

toward goals defined in the plan of service. (10-1-03)T

101. Right Care. Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. (10-1-03)T

112. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (10-1-03)T

123. Right Price. The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. (10-1-03)T

134. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (10-1-03)T

145. Service Coordination. Service coordination is an activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. (10-1-03)T

156. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," Section 118. This includes Targeted Service Coordinators. (10-1-03)T

167. Services. Services paid for by the Department that enable the individual to reside safely and effectively in the community. (10-1-03)T

178. SIB-R. The Scales of Independent Behavior - Revised (SIB-R) is a standardized assessment tool evaluating functional skill levels and evaluating maladaptive behavior. The SIB-R is used by the Department or its designee to determine waiver eligibility, skill level to identify the participant's needs for the plan of service, and for determining the participant budget. (10-1-03)T

189. Supports. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. (10-1-03)T

SECTION 100 (Partial Section)

100. DETERMINATION OF PROGRAM ELIGIBILITY FOR ADULTS WITH A DEVELOPMENTAL DISABILITY.

The Department will make the final determination of an individual's eligibility, based upon the assessments and evaluations administered by the Department or its designee. Initial and annual assessments must be performed by the Department or its designee. The purpose of the assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402(4), Idaho Code, and for ICF/MR level of care for waiver services in accordance with IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," Sections 610 through 615. ~~(10-1-03)T~~(10-1-03)T

SUBSECTIONS 300.05.d. and e. and 300.06 (Partial Section)

300. PLAN OF SERVICE.

In collaboration with the participant, the Department or its designee must assure that the participant has one (1) plan of service. This plan of service is based on the negotiated participant budget referred to in Section 210 of these rules and must identify all services and supports. Participants may develop their own plan or designate a paid or non-paid plan developer. In developing the plan of service, the plan developer and the participant must identify services and supports available outside of Medicaid-funded services that can help the participant meet desired goals. Authorized services must be delivered by providers who are selected by the participant. (10-1-03)T

05. Plan Monitoring. The participant, service coordinator or *paid* plan monitor must monitor the plan. The plan developer is the plan monitor unless there is a service coordinator, in which case the service coordinator assumes the roles of both service coordinator and plan monitor. The planning team must identify the frequency of monitoring, which must be at least every ninety (90) days. Plan monitoring must include the following:

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

d. Review provider status reviews and complete a plan monitor summary after the six (6) month review and for annual plan development.

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

e. Immediately report all allegations or suspicions of mistreatment, abuse, neglect, or exploitation, as well as injuries of unknown origin to the agency administrator, the Regional Medicaid Services (RMS), the adult protection authority, and any other entity identified under Section 39-5303, Idaho Code, or federal law. (10-1-03)T

06. Provider Status Reviews. Service providers, with exceptions identified in Section 340 of these rules, must report the participant's progress toward goals to the plan monitor on the provider status review when the plan has been in effect for six (6) months and at the annual person-centered planning meeting. The semi-annual and annual reviews must include:

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

SECTION 330 (Entire Section)

330. INFORMED CONSENT.

Unless the participant has a guardian with appropriate authority, the participant must make decisions regarding the type and amount of services required. During plan development and amendment, planning team members must each indicate whether they believe the plan meets the needs of the participant, and represents the participant's choice. If not, the plan or amendment must be referred to the Bureau of Care Management's Medicaid Consumer Relations Specialist to negotiate a resolution with members of the planning team. (10-1-03)T

~~**01. No Guardian.** If the participant has no guardian or if the guardian is not readily available, service coordination must be provided to coordinate and monitor services unless the participant chooses not to receive that service.~~ (10-1-03)F

~~**02. Paid Provider.** If a paid provider is the guardian, there must be a service coordinator who is not the guardian, to coordinate and monitor services.~~ (10-1-03)F

SUBSECTION 340.03 (Partial Section)

340. PROVIDER IMPLEMENTATION PLAN.

Each provider of Medicaid services, subject to prior authorization, must develop an implementation plan that identifies specific objectives that demonstrate how the provider will assist the participant to meet the participant's goals and needs identified in the plan of service. (10-1-03)T

03. Documentation Of Changes. Documentation of Implementation Plan changes will be included in the participant's record. This documentation must include, at a minimum, the reason for the change, documentation of coordination with other service providers (where applicable), the date the change was made, the signature of the person making the change complete with the date and title. (10-1-03)T

SECTION 400.03 (Partial Section)

400. COMMUNITY CRISIS SUPPORTS.

Community crisis supports are interventions for participants who have been determined eligible for developmental

disability services and who are at risk of losing housing, employment or income, or are at risk of incarceration, physical harm, family altercation, or other emergencies. Community crisis support may be authorized the following business day after the intervention if there is a documented need for immediate intervention, no other means of support are available, and the services are appropriate to rectify the crisis. Community crisis support is limited to a maximum of twenty (20) hours during any consecutive five (5) day period. (10-1-03)T

03. Crisis Resolution Plan. After community crisis support has been provided, the provider of the community crisis support service must complete a crisis resolution plan and submit it to the Department for approval within three (3) business days. (10-1-03)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.17 - SERVICE COORDINATION

DOCKET NO. 16-0317-0301 - (NEW CHAPTER)

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 37-121 and 39-1603, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed with two revisions and a typographical correction. These additions are being made in response to public comments received during public hearings and the written comment period in accordance with Section 67-5227, Idaho Code. The rules have been revised in Subsections 202.01, 202.02, and 800.02 by adding the words "have been approved to" receive services. The heading in Section 300 is being changed for clarification as well as correcting a reference to another rule chapter.

Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2003 Administrative Bulletin, Volume 03-10, pages 293 through 305.

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

DATED this 7th day of November, 2003.

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IDAPA 16, TITLE 03, CHAPTER 17

SERVICE COORDINATION

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 03-10, October 1, 2003, pages 293 through 305.](#)

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0317-0301

SECTION 202 (Entire Section)

202. ELIGIBILITY - INDIVIDUALS WHO RECEIVE PERSONAL ASSISTANCE SERVICES.

Individuals who receive personal assistance services are eligible for service coordination if they: ()

01. Personal Care Services. Are adults or children who *have been approved to* receive state plan personal care services; or ()

02. Waiver Services. Are adults who *have been approved to* receive Aged and Disabled Home and Community Based Services Waiver; and ()

03. Need Assistance. Require and choose assistance to access services and supports necessary to maintain their independence in the community. ()

SUBSECTION 300.01 (Partial Section)

300. ASSESSMENT.

Assessment for service coordination includes evaluation of the participant's ability to: gain access to *needed* services; coordinate or maintain *those* services; and identify the services and supports the participant needs to maintain his highest level of independence in the community. The assessment is an interactive process with maximum feasible involvement of the participant. ()

01. Assessment Content For Developmental Disability. A person with a developmental disability is assessed through the developmental disability eligibility criteria identified in Section 66-402, Idaho Code. The need for assistance, as defined in Subsection 201.03 of these rules, must be determined through the person centered planning process as defined in IDAPA 16.04.11, "Rules Governing Development Disabilities Agencies," Section 011. ()

SUBSECTION 800.02 (Partial Section)

800. LIMITATIONS ON SERVICE COORDINATION.

When an assessment indicates the need for medical, psychiatric, social, educational, or other services, referral or arrangement for such services may be included as service coordination services. Service coordination is limited to the following: ()

02. Service Coordination For Personal Assistance Services. Up to eight (8) hours per month for participants who *have been approved to* receive personal assistance services, as prior authorized by the Department. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES

DOCKET NO. 16-0322-0301

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 Sections 39-3305, 39-3371, 39-3505 and 39-3561 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 October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 306 and 307.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Debby Ransom at (208) 334-6626.

DATED this 30th day of October, 2003.

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IDAPA 16, TITLE 03, CHAPTER 22

RULES GOVERNING LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES

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 03-10, October 1, 2003, pages 306 and 307.](#)

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.23 - RULES GOVERNING UNIFORM ASSESSMENTS FOR STATE-FUNDED CLIENTS

DOCKET NO. 16-0323-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

In Subsection 004.09, changes were made to clarify that the uniform assessment requirement is met by the assessment and history required in new Chapter IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services".

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the September 3, 2003, Administrative Bulletin, Volume 03-9, pages 138 and 139.

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

DATED this 30th day of October, 2003.

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IDAPA 16, TITLE 03, CHAPTER 23

RULES GOVERNING UNIFORM ASSESSMENTS FOR STATE-FUNDED CLIENTS

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 138 and 139](#).

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0323-0301

SECTION 004 (Partial Section)

004. DEFINITIONS.

09. Uniform Assessment ~~Or *Uniform Assessment Instrument (UAI)*~~. A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities. For participants using the Developmental Disabilities and Idaho State School and Hospital Waiver services, and adults using Developmental Disabilities Agencies services, ~~and or~~ Targeted Service Coordinator services, ~~the Uniform Assessment is the Care Management required testing~~ or both, the requirement for a uniform assessment is met by the assessment and history required under IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". ~~(10-1-03)T(10-1-03)T~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

DOCKET NO. 16-0411-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendments to the temporary rule is October 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 39-4601 et seq. (Developmental Disabilities Services and Facilities Act), Idaho Code.

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

In response to comments received from the Board of Health and Welfare, testimony presented at public hearings, and written comments submitted by the public and Department staff, the following amendments have been made to the Temporary rule:

1. Added reference to the Intensive Behavioral Intervention (IBI) Interpretive Guidelines for Developmental Disabilities Agencies (including URL) in Section 002 regarding written interpretations;
2. Revised the definition of Person-Centered Planning Process in Subsection 011.03;
3. Added a definition for Person-Centered Planning Team in Subsection 011.04;
4. Added a clarifying requirement in Subsection 301.02 that licensing agencies comply with the Department requirement to satisfactorily complete a criminal history check;
5. In Subsection 305.03, changed time period for request for hearing from fifteen (15) to thirty (30) days;
6. In Section 761, clarified the Department requirement that agencies require all job applicants to satisfactorily complete a criminal history check;
7. Throughout Section 800 added clarifications to the standards for Developmental Disabilities Agencies providing services to participants age eighteen (18) or older and ISSH waiver participants; and
8. In Section 801 added clarifications to the standards for Developmental Disabilities Agencies providing services to participants under age eighteen (18) or who do not use ISSH waiver services.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the September 3, 2003, Administrative Bulletin, Volume 03-9, pages 140 through 170.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Diane Helton at (208) 334-5512 or Mary Wells at (208) 364-1840.

DATED this 19th day of November, 2003.

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IDAPA 16, TITLE 04, CHAPTER 11

RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

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 140 through 170.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0411-0301

SECTION 002 (Entire Section)

002. WRITTEN INTERPRETATIONS.

There ~~are no~~ *is a* written interpretation~~s~~ for these rules specific to Intensive Behavioral Intervention (IBI). The Intensive Behavioral Intervention Interpretive Guidelines for Developmental Disabilities Agencies is available at: <http://idahocdhd.org/cdhd/ibi/ibi/IBIRules.asp>. ~~(10-1-03)T~~(10-1-03)T

SECTION 011 (Entire Section)

011. DEFINITIONS -- P THROUGH Z.

For the purposes of these rules, the following terms are used as defined below: (10-1-03)T

01. Paraprofessional. A person such as an aide or therapy technician who is qualified to assist DDP's in providing services. (7-1-97)

02. Participant. A person who receives health care services, ~~is eligible for Medicaid~~, has been identified as having a developmental disability as defined in this chapter, and who is receiving services through a DDA. ~~(10-1-03)T~~(10-1-03)T

03. Person-Centered Planning Process. A ~~planning team~~ meeting facilitated by the plan developer.

~~comprised~~ of family and individuals ~~who are~~ significant to the participant ~~and~~ who collaborate with the participant to develop the plan of service. ~~This team is convened and facilitated by a plan developer.~~ (10-1-03)T(10-1-03)T

04. Person-Centered Planning Team. The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. (10-1-03)T

045. Plan Developer. A paid or nonpaid person identified by the participant who is responsible for developing one (1) plan of service and subsequent addenda that covers all services and supports, based on a person-centered planning process. (10-1-03)T

056. Plan Monitor. A person who oversees the provision of services on a paid or non-paid basis. The plan developer is the plan monitor unless there is a Service Coordinator, in which case the Service Coordinator assumes both roles. (10-1-03)T

067. Plan Of Service. An initial or annual plan that identifies all services and supports based on a person-centered planning process. Plans are authorized annually every three hundred sixty-five (365) days. (10-1-03)T

078. Physical Therapist. A person qualified to conduct physical therapy evaluations and therapy, who is registered to practice in Idaho, and has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)

089. Physician. A person licensed to practice medicine in Idaho in accordance with the provisions of the Medical Practice Act, Sections 54-1801 et seq., Idaho Code. (7-1-97)

0910. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by these rules. (10-1-03)T

101. Provider. Any individual or organization furnishing services through the provisions of these rules. (7-1-97)

112. Provider Agreement. An agreement between a provider and third-party payor whereby the third-party payor agrees to pay the provider for furnishing developmental disabilities rehabilitative and habilitative services in accordance with these rules. (7-1-97)

123. Provider Status Review. The written documentation that identifies the participant's progress toward goals defined in the plan of service. (10-1-03)T

134. Provisional License. A license issued to a DDA which is found not to be in substantial compliance with these rules but not to have deficiencies which jeopardize the health or safety of participants. A provisional license can be issued for a specific period of time, not to exceed one hundred eighty (180) days, while corrections are being completed. (10-1-03)T

145. Psychologist. A person licensed by the State of Idaho in accordance with the provisions of Sections 54-2301 et seq., Idaho Code, to independently practice psychology, or who is exempt from such requirements and meets the minimum qualifications established by the Idaho Personnel Commission to perform the duties assigned in classified service as defined by the Department, and has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)

156. Psychology Assistant. An individual who practices psychology under the supervision of a licensed psychologist as required by Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners". (7-1-97)

167. Rehabilitation. The process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning. (7-1-97)

178. Rehabilitative And Habilitative Services. Evaluation and diagnostic services which include medical, social, developmental, psychological/psychiatric services, occupational therapy, physical therapy, and speech and hearing therapy. Treatment services which include individual, group and family-centered psychotherapy; individual and group speech and hearing therapy; individual and group physical therapy; individual and group developmental therapy, and individual and group occupational therapy. Evaluation, diagnostic and treatment services are to be provided on an outpatient basis and may be community-based, home-based, or center-based as consistent with the requirements of this chapter. (7-1-97)

189. Service. Evaluation, diagnosis, therapy, training, assistance, or support provided to a person with a developmental disability by a DDA. (7-1-97)

190. Service Coordination. Service coordination is an activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. (10-1-03)T

201. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," Section 118. This includes Targeted Service Coordinators. (10-1-03)T

212. Social Worker. A person licensed in accordance with the Social Work Licensing Act, Sections 54-3201 et seq., Idaho Code, and who has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)

223. Speech And Language Pathologist. A person qualified to conduct speech/language evaluation and therapy, who possesses a certificate of clinical competency in speech-language pathology or who will be eligible for certification within one (1) year of employment. Certification must be from the American Speech Language and Hearing Association (ASHA). (10-1-03)T

234. State Developmental Disability Authority. The Department is the State Developmental Disability Authority which has statewide responsibility for planning, coordinating and monitoring developmental disabilities services. (10-1-03)T

245. Substantial Compliance. Deficiencies identified at the time of the survey by the licensing agency that do not present a serious risk to participants' health or safety or seriously impede the agency's ability to provide habilitative or rehabilitative services. (10-1-03)T

256. Supervision. Initial direction and procedural guidance by a DDP and periodic inspection of the actual work performed at the site of service delivery. (7-1-97)

267. Supports. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. (10-1-03)T

278. Temporary Developmental Disabilities Site Approval. A location, established by a fully licensed agency, to provide additional services for ninety (90) or less consecutive days. (7-1-97)

289. U.L. Underwriters Laboratories. (7-1-97)

SECTION 200 (Entire Section)

200. THE ROLE OF DEVELOPMENTAL DISABILITIES AGENCIES (DDAS).

Services must be directed toward persons identified as having a developmental disability as defined in these rules. Developmental Disabilities Agencies must provide services to eligible participants with developmental disabilities. (10-1-03)T(10-1-03)T

SUBSECTION 301.02 (Partial Section)

301. APPLICATION FOR LICENSURE.

02. Conformity. Licensed agencies must conform to all applicable rules and rules of the Department, such as Medicaid reimbursement procedures, ~~background checks, including compliance and satisfactory completion of a criminal history check in accordance~~ with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks;" ~~and fingerprinting requirements.~~ (10-1-03)F(10-1-03)T (7-1-97)

SUBSECTIONS 305.03 and 305.04 (Partial Section)

305. ISSUANCE OF A PROVISIONAL LICENSE, DENIAL OR REVOCATION OF LICENSE.

The Department will issue a provisional license, or deny or revoke the license if, after investigation of the agency, it finds that the agency is not in substantial compliance with these rules. (7-1-97)

03. Request For Hearing. Within ~~fifteen~~ twenty-eight (28) days of the receipt date of the notice to issue a provisional license or action to deny or revoke the license, the applicant may request ~~a hearing in writing, a hearing with the Director and subsequently may appeal to the District Court.~~ (7-1-97)

04. Contested Case Provisions. Upon receipt of the written request, a hearing will be scheduled and conducted in accordance with IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". ~~A review decision will be sent to the applicant within thirty (30) days of the date of the conclusion of hearing.~~ (7-1-97)(10-1-03)T

SECTION 761 (Entire Section)

761. APPLICANT SCREENING

The agency must ~~develop~~ have policies and procedures regarding job applicants, including ~~compliance the requirement of satisfactory completion of a criminal history check in accordance~~ with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks;" ~~which ensure that individuals hired do not have a conviction or prior employment history of abuse, neglect, mistreatment, or exploitation of a child or vulnerable adult.~~ (10-1-03)F(10-1-03)T

SECTION 800, SUBSECTIONS 800.01, .02, .05, .05.e. and f., .06, .07, and .09 (Partial Section)

800. STANDARDS FOR DEVELOPMENTAL DISABILITIES AGENCIES (DDA) PROVIDING SERVICES TO PARTICIPANTS AGE EIGHTEEN OR OLDER AND ISSH WAIVER PARTICIPANTS.

DDA services for participants eighteen (18) years of age or older and ISSH Waiver participants must be prior authorized in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". Each DDA providing services under the requirements of Section 800 must provide the following rehabilitative and habilitative services consistent with the needs of persons with developmental disabilities eighteen (18) years of age or older or ISSH Waiver participants based on a plan of service authorized by the Department. (10-1-03)F(10-1-03)T

01. Intake. Prior to the delivery of any DDA services: (7-1-97)(10-1-03)T

a. ~~Prior to the delivery of any DDA services, the Department must find~~ The person must be determined by the Department to be eligible for DDA services; (10-1-03)F(10-1-03)T

b. ~~Prior to the delivery of DDA services,~~ The current medical/social history, SIB-R, and the medical care evaluation form must be obtained from the Department or its designee; and (10-1-03)T

~~c.~~ ~~All services must be prior authorized by the Department or its designee under IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". IBI services are authorized under Section 8409 of these rules.~~
(10-1-03)F(10-1-03)T

02. Evaluations. ~~Comprehensive assessments which are completed by the agency~~ Evaluations required for the development of the implementation plan administered by the DDA must: (10-1-03)F(10-1-03)T

- a. Be conducted by qualified professionals for the respective disciplines as defined in this chapter; (7-1-97)
- b. Be identified as a service on the plan of service and be prior authorized by the Department or its designee. (10-1-03)T

05. Implementation Plan. The DDA must ~~be required to~~ develop an Implementation Plan for each service or support ~~which that~~ is included on the participant's plan of service provided by the agency as outlined in these rules. The Implementation Plan must be completed within fourteen (14) days ~~from the time the services were provided~~ after the initial provision of service, be revised whenever participant needs change, and must include: (10-1-03)F(10-1-03)T

e. Written instructions to staff such as curriculum, lesson plans, locations, activity schedules, type and frequency of reinforcement and data collection, directed at the achievement of each objective. These instructions may be standardized, however, they must be individualized and revised as necessary to promote participant progress toward the stated objective. (10-1-03)F(10-1-03)T

f. Identification of the specific environment(s) where services ~~must~~ will be provided. (10-1-03)F(10-1-03)T

~~06.~~ **Program Changes To The Implementation Plan.** (7-1-97)

a. The DDA must coordinate the participant's DDA program with other service providers to maximize learning. (10-1-03)T

b. Documentation of Implementation Plan changes will be included in the participant's record. This documentation must include, at a minimum, the reason for the change, documentation of coordination with other service providers; (where applicable), the date the change was made, and the signature of the person making the change complete with date and title. ~~A copy of the plan of service will suffice for compliance to this requirement.~~
(10-1-03)F(10-1-03)T

c. If there are changes to an Implementation Plan that affect the service on the plan of service, an addendum to the plan of service must be completed in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". (10-1-03)T

~~067.~~ **Program Documentation.** Each participant's record must include documentation of the participant's ~~participation~~ involvement in and response to services provided. This documentation must include at a minimum: (10-1-03)F(10-1-03)T

- a. Daily entry of all activities conducted toward meeting participant objectives; and (10-1-03)T
- b. Sufficient progress data to accurately assess the participant's progress toward each objective; and (10-1-03)T
- c. A review of the data and, when indicated, changes in the daily activities or specific implementation procedures by a DDP. The review must include the DDP's dated initials; and (10-1-03)T

- d. Documentation of notification of the participant and when applicable, the participant's guardian. (10-1-03)T

09. Provider Status Review. DDAs must submit semiannual and annual status reviews to the plan monitor reflecting the status of behavioral objectives or services identified on the plan of service. Semiannual status reviews must remain in the participant's file and annual status reviews must be attached to annual plan of service. ~~(10-1-03)T~~(10-1-03)T

SECTION 801 and SUBSECTIONS 801.02, .03.a., and .08 through .12, (Partial Section)

801. STANDARDS FOR DDAS PROVIDING SERVICES TO PARTICIPANTS UNDER AGE EIGHTEEN WHO DO NOT USE ISSH WAIVER SERVICES.

Each DDA providing services under the requirements of Section 801 must provide the following rehabilitative and habilitative services consistent with the needs of persons under age eighteen (18) or who do not use ISSH Waiver services with developmental disabilities. These services are to be available and accessible throughout the DDA's service area. ~~(10-1-03)T~~(10-1-03)T

02. Intake. To ensure the health and safety of the participant, medical information ~~which~~ that accurately reflects the current status and needs of the participant must be obtained prior to the delivery of services. When this information is not available, a comprehensive medical evaluation must be completed prior to the provision of services. ~~(10-1-03)T~~(10-1-03)T

- 03. Evaluations.** (7-1-97)

a. Comprehensive evaluations ~~which~~ that are completed by the agency must be conducted by qualified professionals for the respective disciplines as defined in this chapter, recommended by a physician, identify accurate, current and relevant participant strengths, needs and interests as applicable to the respective discipline, and recommend the type and amount of therapy necessary to address the participant's needs. ~~(10-1-03)T~~(10-1-03)T

08. Physician Recommendation. ~~There~~ It must be ~~documentation~~ documented that the plan is recommended by a physician prior to implementing the Individual Program Plan and when revisions in the plan change the type, amount, or duration of the service provided, and at the annual review. ~~(10-1-03)T~~(10-1-03)T

~~**09. Regional Notification.** DDAs are responsible to send a quarterly report to the Department or its designee for entry into a database. The report must include each participant's name, date of birth, type and amount of service, start date, and social security number.~~ ~~(10-1-03)T~~

~~**109. Implementation Plan.** The DDA must develop an Implementation Plan for each objective listed on the Individual Program Plan. The Implementation Plan must be completed within fourteen (14) days from the time the service was provided and include:~~ (10-1-03)T

- a. The participant's name; ~~and~~ ~~(10-1-03)T~~(10-1-03)T
- b. The measurable, behaviorally stated Individual Program Plan objective; ~~and~~ ~~(7-1-97)~~(10-1-03)T
- c. Baseline assessment to determine the participant's specific skills and abilities related to the specific skill to be learned; ~~and~~ ~~(10-1-03)T~~(10-1-03)T
- d. Written instructions to staff such as curriculum, lesson plans, activity schedules, type and frequency of reinforcement and data collection, directed at the achievement of each objective. These instructions may be standardized, however, they must be individualized and revised as necessary to promote participant progress towards the stated objective; ~~and~~ ~~(10-1-03)T~~(10-1-03)T

e. Identification of the specific location where services ~~must~~ will be provided; and
(~~10-1-03~~)(10-1-03)T

f. The target date for completion. (7-1-97)

140. Program Documentation. Each participant's record must include documentation of the participant's participation in and response to services provided. This documentation must include at a minimum:
(10-1-03)T

121. Documentation Of Program Changes. Documentation of all changes in the Individual Program Plan or Implementation Plan must be included in the participant's record. This documentation must include at a minimum;
(10-1-03)T

132. Records. Each DDA licensed under these rules must maintain accurate, current and complete participant and administrative records. Each participant record must support the individual's choices, interests and needs which result in the type and amount of each service provided. Each agency must have an integrated participant records system to provide past and current information and to safeguard participant confidentiality under these rules. Each participant record must contain the following information:
(10-1-03)T

SUBSECTION 804.01 (Partial Section)

804. REQUIRED SERVICES.

Services provided must be sufficient in quantity and quality to meet the needs of each person receiving services, and must be provided by qualified professionals for the respective disciplines defined in this chapter. The following services, individual, group, community-based and home-based must be available as recommended by the physician and based on participant needs, interests, or choices to eligible participants either by employees of the agency or through formal written agreement and must comply with all applicable rules of this chapter:
(10-1-03)T

01. Psychotherapy. Psychotherapy services when provided by a physician, psychiatrist, psychologist, psychology assistant, or social worker in accordance with the objectives specified. Psychotherapy services available must include the following:
(10-1-03)T

a. Individual psychotherapy; and (7-1-97)

b. Group psychotherapy in which there ~~must be~~ is a minimum ratio of one (1) qualified staff person for every twelve (12) individuals in group therapy; and
(~~10-1-03~~)(10-1-03)T

c. Family-centered psychotherapy ~~which must~~ that includes the participant and at least one (1) other family member at any given time.
(~~10-1-03~~)(10-1-03)T

SUBSECTIONS 809.02 and 809.03 (Partial Section)

809. QUALIFICATIONS TO PROVIDE INTENSIVE BEHAVIORAL INTERVENTION (IBI).

A person qualified to provide or direct the provision of Intensive Behavioral Intervention (IBI) must meet the following requirements:
(5-3-03)

02. Experience. An individual applying for IBI paraprofessional or professional certification must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. The year's experience must include one thousand (1,000) hours of direct contact or care of children with developmental disabilities in a behavioral context ~~with developmental disabilities~~.
(~~5-3-03~~)(10-1-03)T

03. Training And Certification. Qualified IBI professionals and paraprofessionals must complete and

pass a Department-approved training course and examination for certification. The training must include a curriculum that addresses standards of competence for the provision of intensive behavioral intervention and ethical standards. Specifically, the curriculum must include: assessment of individuals, behavioral management, services or treatment of individuals, supervised practical experience, and an observation of demonstrated competencies. An individual applying for IBI professional certification or to be certified as an IBI trainer must also be able to demonstrate their competency in the provision of IBI services by passing a certification examination. A certified IBI professional who has a break in the provision of IBI services of more than one (1) year will be required to meet any additional Department requirements implemented subsequent to the individual's certification. ~~(5-3-03)~~(10-1-03)T

SUBSECTIONS 900.02.d. and 900.04.b. (Partial Section)

900. ADDITIONAL STANDARDS FOR PERSONNEL PROVIDING DEVELOPMENTAL DISABILITY SERVICES.

02. Paraprofessionals. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental disabilities services if they are under the supervision of a DDP. (7-1-97)

d. Paraprofessionals ~~must~~ may not conduct participant evaluations or establish the Implementation Program Plan. These activities must be conducted by a DDP; and ~~(10-1-03)~~(10-1-03)T

04. Administrative Staffing. The program administrator must be accountable for all service elements of a developmental disabilities program and must be employed on a continuous regularly scheduled basis. (10-1-03)T

b. If the administrator is not a DDP, a DDP must be employed on a continuous regularly scheduled basis and ~~must be~~ is responsible for the service elements of the developmental disabilities program; ~~(10-1-03)~~(10-1-03)T

SUBSECTIONS 920.03 and 920.04.e. and .04.i. (Partial Section)

920. BUILDING STANDARDS.

The requirements under this section apply when an agency is providing center-based services. (7-1-97)

03. Capacity. ~~Agencies must~~ An agency may not serve ~~no~~ more than forty (40) persons with developmental disabilities on site at a given time. ~~Agencies~~ An agency may apply to the Director for a waiver under these rules. The decision of the Director may be reviewed by the Board. Agencies are encouraged to include persons without disabilities in their programs or to integrate persons with disabilities into community activities for part of the day. ~~(10-1-03)~~(10-1-03)T

04. Fire And Safety Standards. (7-1-97)

e. Portable heating devices ~~must be~~ are prohibited except units that have heating elements that are limited to not more than two hundred twelve (212) degrees Fahrenheit. The use of unvented, fuel-fired heating devices of any kind ~~must be~~ is prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority; and ~~(10-1-03)~~(10-1-03)T

i. Portable fire extinguishers must be installed throughout the facility; ~~in the~~ the numbers, types and locations ~~must be~~ directed by the applicable fire authority noted in Subsection 920.04.a. of these rules; and ~~(10-1-03)~~(10-1-03)T

SUBSECTIONS 921.03.c. through 921.03.f. (Partial Section)

921. HEALTH.

03. Handling Of Participant's Medications. Personnel of the agency must not administer medications unless legally authorized to do so. Personnel may assist the participant to take his own medication under the following conditions: (10-1-03)T

c. ~~No~~ Medications ~~must~~ may not be given except under the verbal or written orders of a physician. Evidence of the written or verbal order must be maintained in the participant's record. Medisets labeled by a pharmacist and supplied to the participant on a weekly basis may serve as written evidence of a physician's order. An original prescription bottle labeled by a pharmacist describing the current physician's orders/instructions for use, may also serve as written evidence of a physician's orders. (~~10-1-03~~)T(10-1-03)T

d. The agency ~~must be~~ is responsible for the safeguarding of the participant's medications while he is at the agency or in the community. (~~10-1-03~~)T(10-1-03)T

e. Medications ~~which~~ that are no longer used by the participant must not be retained by agency staff. These must be returned to the pharmacist, the participant, or the person responsible for the participant's home care. (~~10-1-03~~)T(10-1-03)T

f. Medications ~~must~~ prescribed for one (1) participant may not be borrowed between shared with other participants. (~~10-1-03~~)T(10-1-03)T

SECTION 924 (Entire Section)

924. STATE PLAN.

Each agency ~~must be~~ is required, as needed, to participate in the state developmental disabilities plan development by completing an annual needs assessment survey or public hearing on services for Idahoans with disabilities. (~~10-1-03~~)T(10-1-03)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.17 - RULES GOVERNING RESIDENTIAL HABILITATION AGENCIES

DOCKET NO. 16-0417-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendments to the temporary rule is October 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 39-4601 et seq. (Developmental Disabilities Services and Facilities Act), Idaho Code.

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

In response to comments received from the Board of Health and Welfare, testimony presented at public hearings, and written comments submitted by the public and Department staff, the following amendments have been made to the Temporary rule:

1. Revised the statutory citation in Section 000 regarding legal authority;
2. Revised the definition of Person-Centered Planning Process in Subsection 011.07;
3. Added a clarifying requirement in Subsection 202.01.b. that Administrators for Residential Habilitation Agencies satisfactorily complete a criminal history check;
4. In Subsection 301.03.j. clarified that all employees of Residential Habilitation Agencies must satisfactorily complete (not simply complete) a criminal history check; and
5. In Subsection 302.01.b. clarified that the required prior authorization of services must be in accordance with the new chapter regarding prior authorization, IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services".

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule.

Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the September 3, 2003, Administrative Bulletin, Volume 03-9, pages 171 through 186.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Diane Helton at (208) 334-5512 or Mary Wells at (208) 364-1840.

DATED this 31st day of October, 2003.

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IDAPA 16, TITLE 04, CHAPTER 17

RULES GOVERNING RESIDENTIAL HABILITATION AGENCIES

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 171 through 186.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0417-0301

SECTION 000 (Entire Section)

000. LEGAL AUTHORITY.

The Idaho Legislature, under the Developmental Disabilities Services and Facilities Act, Sections 39-46051 et seq., Idaho Code, has empowered the Board of Health and Welfare with broad authority to develop and coordinate services for persons with developmental disabilities, so that the needs of each such person can be met. The authority delegated includes the power to promulgate standards and rules. ~~(10-1-03)F~~(10-1-03)T

SUBSECTION 011.07 and 011.08 (Partial Section)

011. DEFINITIONS -- M THROUGH Z.

For the purposes of these rules the following terms are used as defined below: (10-1-03)T

07. Person-Centered Planning Process. A ~~planning team~~ meeting facilitated by the plan developer, comprised of family and individuals ~~who are~~ significant to the participant ~~and~~ who collaborate with the participant to develop the plan of service. ~~This team is convened and facilitated by a plan developer.~~ ~~(10-1-03)F~~(10-1-03)T

08. Person-Centered Planning Team. The ~~participants~~ group who develops the plan of service, ~~which~~ This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the

participant and the Department as important to the process.

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

SECTION 202 and SUBSECTION 202.01.b. (Partial Section)

202. ADMINISTRATOR.

~~The~~ An administrator is responsible and accountable for implementing the policies and procedures approved by the governing authority.

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

01. Administrator Qualifications. Each agency must have a designated administrator who:

(10-1-03)T

b. Has ~~not been convicted of any felony or fraudulent practices~~ satisfactorily completed a criminal history check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks"; and

~~(7-1-95)~~(10-1-03)T

SUBSECTION 301.03.j. (Partial Section)

301. PERSONNEL.

03. Personnel Records. A record for each employee and affiliated residential habilitation provider must be maintained from date of hire or affiliation for not less than one (1) year after the employee or affiliated residential habilitation provider is no longer employed by the agency, and must include at least the following:

(10-1-03)T

j. Verification of satisfactory completion of criminal history checks in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks"; and

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

SUBSECTION 302.01.b. (Partial Section)

302. SERVICE PROVISION PROCEDURES.

01. Admission Procedures. The following criteria must apply to all participants receiving services from a residential habilitation agency:

(10-1-03)T

b. The agency must obtain authorization from the Department for reimbursement for each Medicaid-covered eligible waiver service prior to providing residential habilitation services in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services".

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-0301 - (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) 39-242, 39-5403, 56-221, 56-1003, and 56-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted with no changes to the temporary and the proposed docket(s). The original text of the temporary docket was published in the April 2, 2003 Administrative Bulletin, Volume 03-04, page 14. The original text of the proposed docket was published in the October 1, 2003 Administrative Bulletin, Volume 03-10, page 303.

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

DATED this 30th day of October, 2003.

Sherri Kovach, Program Supervisor
Administrative Procedures Section
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

THIS CHAPTER IS REPEALED IN ITS ENTIRETY.

IDAPA 16, TITLE 05, CHAPTER 01

RULES GOVERNING THE PROTECTION AND DISCLOSURE OF DEPARTMENT RECORDS

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 03-10, October 1, 2003, page 303.](#)

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

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

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

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) 39-242, 39-5403, 56-221, 56-1003, and 56-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted with no changes to the temporary and the proposed dockets. The original text of the temporary docket was published in the April 2, 2003 Administrative Bulletin, Volume 03-04, pages 15 through 28. The original text of the proposed docket was published in the October 1, 2003 Administrative Bulletin, Volume 03-10, pages 309 through 323.

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

DATED this 30th day of October, 2003.

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

IDAPA 16, TITLE 05, CHAPTER 01

USE AND DISCLOSURE OF DEPARTMENT RECORDS

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 03-10, October 1, 2003, pages 309 through 323.](#)

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES
DOCKET NO. 16-0601-0401
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 16-1624, 16-2001, 16-2402, 56-202(b), 56-203(b), 56-204(a), 56-204A, 56-1003, and 56-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 21, 2004.

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

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

The 2003 Legislature provided for foster care payment rates to increase beginning July 1, 2003. The rate table in Section 483 is being amended to reflect this increase.

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, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal regulations.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because amendments were made to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Chuck Halligan, (208) 334-6559.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 28, 2004.

DATED this 11th day of August, 2003.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-0401

483. PAYMENT TO FAMILY FOSTER CARE PROVIDERS.

Monthly payments for care provided by foster care families are:

Family Foster Care Payments - Table 483			
Ages	0-5	6-12	13-18
Monthly Room and Board	\$254 <u>261</u>	\$275 <u>286</u>	\$394 <u>410</u>

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

01. Gifts. An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts shall be paid in the appropriate months. (3-18-99)

02. Clothing. Costs for clothing shall be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (3-18-99)

03. School Fees. School fees due upon enrollment shall be paid, based upon the Department's determination of the child's needs. (3-18-99)

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0301

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-912(4) and 54-924(8), 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 proposed rulemaking is for the following purposes: to incorporate the American Dental Association's Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code) into the Board of Dentistry's administrative rules by reference; to specify that a violation of the ADA Code by a dentist constitutes unprofessional conduct; to specifically identify the six (6) areas of specialty dental practice recognized and licensed by the Board of Dentistry; to provide that false, fraudulent and misleading advertising by dentists and dental professionals is prohibited as unprofessional conduct; to define the terms advertisement and advertising; to specify types of advertising that will be considered to be false, fraudulent and misleading to the public; and to provide that false, fraudulent and misleading advertising may result in disciplinary action by the Board of Dentistry against a dentist's or dental specialist's license. In response to public comments received, the text of the proposed rule is being changed in order to expressly state that the standards of the ADA Code will only be applicable to dentists. That change is being published in this Bulletin following this notice.

The text of 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 original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 331 through 336.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Michael J. Sheeley, Executive Director, Idaho State Board of Dentistry, at (208) 334-2369.

DATED this 5th day of November, 2003.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
708½ W. Franklin Street
Boise, Idaho 83702
(208) 334-2369 (telephone)
(208) 334-3247 (facsimile)

IDAPA 19, TITLE 01, CHAPTER 01

RULES OF THE IDAHO STATE BOARD OF DENTISTRY

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 03-10, October 1, 2003, pages 331 through 336.](#)

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 19-0101-0301

SUBSECTION 040.24 (Partial Section)

040. UNPROFESSIONAL CONDUCT (Rule 40).

A dentist or hygienist shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of the following: (7-1-93)

24. American Dental Association Compliance. *Failure by a dentist to comply with the American Dental Association, Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code), as incorporated by reference in this chapter.* ()

IDAPA 22 - BOARD OF MEDICINE

22.01.03 - RULES OF THE LICENSURE OF PHYSICIAN ASSISTANTS

DOCKET NO. 22-0103-0301

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 Sections 54-1806 (2) and 54-1807 (2), 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 proposed rule changes the provision for the delegation of services agreement to include a listing of the physician assistant's and graduate physician assistant's training, experience and education, defines the patient services to be delegated and includes the responsibility of the licensees and supervising physician to maintain a current delegation of services agreement. The proposed rule changes clarify the scope of practice to include only those duties and responsibilities delegated to them by the supervising physician and in accordance with the delegation of services agreement; includes a provision for supervision while providing disaster or emergency care; and revises the provision for license/registration issuance, renewal, cancellation, reinstatement. The proposed rule includes a provision for a Physician Assistant Committee to be created and made a part of the Idaho State Board of Medicine, pursuant to adoption of Resolution 01-093.

Pursuant to negotiated rulemaking and public comment, the change between the text of the proposed rule change and the text of the pending rule provides for further clarification of the scope of practice, delegation of services agreement, practice standards, and the grounds for discipline. The primary reason for the change was to assure the public health, safety and welfare in the state by the licensure and regulation of physician assistants and graduate physician assistants. The specific reason for the change in the scope of practice was to clarify that administration of local anesthetics, injected subcutaneously, digital blocks, or the application of topical anesthetics is under the supervision of a licensed medical physician. The change also makes clear that physician assistants and graduate physician assistants shall not administer or monitor general or regional block anesthesia during diagnostic tests, surgery, or obstetric procedures. The reason for the change in the delegation of services agreement was to provide for the prior review and approval by the Board of specialized procedures requested to be provided by licensees and provide that the supervising physician may be required to provide written information, which will include his affidavit attesting to the licensee's qualifications and clinical abilities to perform the specific procedures. The reason for the change in the practice standards was to elucidate the supervision ratios that were provided in the definitions section. The reason for the change in the grounds for discipline was to delete inclusion of registered physician assistant trainees as the responsible training facility is best able to address any relevant issues or problems.

Pursuant to Section 67-5222(1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, protect legal interests of the various professions, and promote public health, safety, and welfare. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 349 through 360.

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 Section 54-1807(2), Idaho Code.

The fee schedule has been broadened, however, there will be no increase in fees. The rule changes provide for inactive licensure and have designated a fee less than that for an active license.

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.

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

DATED this 18th day of November, 2003.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
Boise, Idaho 83704
P.O. Box 83720
Boise, Idaho 83720-0058
Telephone: (208) 327-7000
Fax: (208) 327-7005

IDAPA22, TITLE 01, CHAPTER 03

RULES OF THE LICENSURE OF PHYSICIAN ASSISTANTS

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 03-10, October 1, 2003, pages 349 through 360.

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0103-0301

SECTION 000 (Entire Section)

000. LEGAL AUTHORITY.

Pursuant to Idaho Code Section 54-1806(2), the Idaho State Board of Medicine is authorized to promulgate rules to govern activities of persons ~~employed~~ licensed under these rules to practice as physician assistants ~~by~~ and graduate physician assistants under the supervision of persons licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho. (3-19-99)()

SUBSECTIONS 010.02 and 010.04 (Partial Section)

010. DEFINITIONS.

02. Approved Program. A course of study for the education and training of physician assistants which is ~~approved~~ accredited by the Committee on Allied Health Education and Accreditation, ~~or~~ the Commission on Accreditation of Allied Health Education Programs, the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or equivalent agency recognized by the Board as recommended by the Committee. (3-19-99)()

064. Delegation Of Services (DOS) Agreement. A written document mutually agreed upon and signed and dated by the licensed physician assistant or graduate physician assistant and supervising physician that defines the working relationship and delegation of duties between the supervising physician and the ~~physician assistant licensee~~ as specified by Board rule. The Board ~~of Medicine may~~ shall review the written delegation of services agreement, ~~and may review~~ job descriptions, policy statements, or other documents that define the responsibilities of the physician assistant ~~or graduate physician assistant~~ in the practice setting, and may require such changes as needed to achieve compliance with these rules, and to safeguard the public. (3-19-99)()

SUBSECTIONS 028.01.b. and 028.01.b. (Partial Section)

028. SCOPE OF PRACTICE.

01. Physical Examination. ~~A physician assistant may evaluate the physical and psychosocial health status through a comprehensive health history and physical examination. This may include the performance of pelvic examinations and pap smears; and~~ **Scope.** The scope of practice of physician assistants and graduate physician assistants shall be defined in the delegation of services and may include a broad range of diagnostic, therapeutic and health promotion and disease prevention services. ()

b. The scope of practice may include prescribing, administering, and dispensing of medical devices and drugs, including the administration of a local anesthetic injected subcutaneously, digital blocks, or the application of topical anesthetics, while working under the supervision of a licensed medical physician. Physician assistants and graduate physician assistants shall not administer or monitor general or regional block anesthesia

during diagnostic tests, surgery, or obstetric procedures. ()

d. A supervising physician shall not supervise more than a total of three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. An alternate supervising physician shall not supervise more than three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. ()

SUBSECTIONS 030.03., 030.03.c., and 030.03.c.iii. (Partial Section)

030. PRACTICE STANDARDS.

043. Delegation Of Services Agreement. Each licensed physician assistant and graduate physician assistant shall maintain a current copy of a Delegation of Services (DOS) Agreement between the physician assistant licensee and each of his ~~or her~~ supervising physicians. The delegation of services agreement, made upon a form provided by the Board, shall include a listing of the licensee's training, experience and education, and defines the patient services to be delegated. It is the responsibility of the licensee and supervising physician to maintain a current delegation of services agreement. All specialized procedures that need prior review and approval by the Board will be listed on the delegation of services agreement form supplied by the Board. Prior to provision, all licensees requesting to provide any of the listed services will be required to send their delegation of services agreement to the Board for approval. The Board may require the supervising physician to provide written information, which will include his affidavit attesting to the licensee's qualifications and clinical abilities to perform the specific procedures listed in the delegation of services agreement. This agreement shall ~~not~~ be sent to the Board, ~~but~~ and must be maintained on file at each practice location in which the physician assistant is practicing and at the address of record of the supervising physician. The Committee will review this agreement in conjunction with and make recommendations to the Board. The Board may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 18, Idaho Code, and to safeguard the public. This agreement ~~shall be made immediately available to the Board upon request and~~ shall include: (3-19-99)()

c. The written plans and methods to be used to ~~ensure~~ responsible direction and control of the activities ~~of and~~ patient services rendered by the physician assistant licensee which shall provide for: (3-19-99)()

iii. Periodic review of a representative sample of records and a periodic review of the patient services being provided by the physician assistant licensee. This review shall also include an evaluation of adherence to the delegation of services agreement; (3-19-99)()

SUBSECTION 036.02 (Partial Section)

036. GRADUATE PHYSICIAN ASSISTANT.

02. Licensure Prior to College Baccalaureate Degree - Board Consideration. Registration Licensure as a graduate physician assistant may also be considered ~~by the Board~~ upon application made to the Board on forms supplied by the Board and payment of the prescribed fee when: (3-19-99)()

SUBSECTIONS 037.01, 037.02., 037.02.c., 037.02.e. through 037.02.i. (Partial Section)

037. ~~TERMINATION OF APPROVAL AND~~ DISCIPLINARY PROCEEDINGS AND NOTIFICATION OF CHANGE.

01. Discipline. Every person licensed as a physician assistant or graduate physician assistant is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-1806A, Idaho Code and the Administrative Procedures Act. (3-19-99)()

02. Grounds For Discipline. In addition to the grounds for discipline set forth in Section 54-1814, Idaho Code; and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Section 101, persons licensed as physician assistants under these rules are subject to discipline upon the following grounds ~~the physician assistant~~ if that person: (3-19-99)()

c. ~~The physician assistant has p~~Performed a task or tasks beyond the scope of activities allowed by Section 028.; (3-19-99)()

e. ~~The physician assistant had d~~Demonstrated manifest incapacity to carry out the functions of a physician assistant; or graduate physician assistant; (3-19-99)()

f. ~~The physician assistant has f~~Failed to complete or maintain a current copy of the ~~D~~delegation of ~~S~~services Agreement as specified by ~~Subsection 030.04;~~ (3-19-99)()

g. ~~The physician assistant has f~~Failed to notify the Board of a change or addition of a supervising or alternate supervising physician within two (2) weeks of the change as specified by Subsection 037.03.; (3-19-99)()

h. Aided or abetted a person not licensed in this state who directly or indirectly performs activities requiring a license; ()

i. Failed to report to the Board any known act or omission of a licensee, applicant, or any other person, which violates any provision of these rules; or ()

SECTION 053 (Entire Section)

053. DELEGATION OF SERVICES AGREEMENT.

Within one hundred ~~and~~ twenty (120) days of the effective date of these rules, all currently licensed physician assistants and graduate physician assistants shall have a written delegation of services agreement as specified in ~~IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," Subsection 030.04~~ of these rules. (3-19-99)()

IDAPA 22 - BOARD OF MEDICINE

22.01.04 - RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING PHYSICIANS

DOCKET NO. 22-0104-0301

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 Sections 54-1806(2), 54-1807(1)(2), 54-1814(17), 54-3902(7), and 54-3903, 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 proposed rules include additional definitions and provide for a directing physician registered with the Board who is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training. The proposed rules clarify the duties and responsibilities of supervising and directing physicians with regard to overseeing the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, residents, and athletic trainers.

Pursuant to public comment and negotiated rulemaking for IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," and IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," the change between the text of the proposed rule change and the text of the pending rule was to clarify the definitions for consistency with other rules and statutes and to elucidate the duties of supervising physicians. The definition for alternate supervising physician was changed to include the provision that the Board may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. The reason for the change in the provision for the supervisory responsibility of supervising physicians was to elucidate the supervision ratios that were provided in the definitions section.

Pursuant to Section 67-5222 (1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, protect legal interests of the various professions, and promote public health, safety, and welfare. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 361 through 366.

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 54-1807 (1) and (2) and 54-3902 (7), Idaho Code.

The fee schedule has been broadened to include a registration fee for directing physicians, however, there will be no increase in fees.

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.

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

DATED this 18th day of November 2003.

Nancy M. Kerr
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IDAPA 22, TITLE 01, CHAPTER 04

**RULES OF THE BOARD OF MEDICINE FOR REGISTRATION
OF SUPERVISING AND DIRECTING PHYSICIANS**

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 03-10, October 1, 2003, pages 361 through 366.](#)

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0104-0301

SECTION 000 (Entire Section)

000. LEGAL AUTHORITY.

Pursuant to Sections 54-1807(1)(2), ~~and~~ 54-1814(17), 54-3902(7), and 54-3903, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the activities of physicians and osteopathic physicians licensed in Idaho, who supervise the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, ~~and~~ residents, and athletic trainers.
(3-19-99)()

SUBSECTIONS 010.02 and 010.03 (Partial Section)

010. DEFINITIONS.

02. Alternate Directing Physician. A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer in the temporary absence of the directing physician. ()

03. Alternate Supervising Physician. An Idaho licensed physician who is registered with the Board pursuant to this chapter and who has full responsibility for the medical acts and practice of a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist in the temporary absence of the supervising physician. An alternate supervising physician shall not supervise more than three (3) such licensees contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. ()

an alternate

SUBSECTION 019.03 and 019.05 (Partial Section)

019. DUTIES OF DIRECTING PHYSICIANS.

03. Scope Of Practice. The directing physician shall ensure the scope of practice of the athletic trainer, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. ()

05. Available Supervision. The directing physician shall oversee the activities of the athletic trainer and must be available either in person or by telephone to supervise, direct and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer shall be outlined in an athletic training service plan or protocol, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," Section 013. ()

SUBSECTION 020.01b. and 020.04 (Partial Section)

020. DUTIES OF SUPERVISING PHYSICIANS.

01. Responsibilities. The supervising physician ~~shall be responsible~~ accepts full responsibility for the medical acts of and patient services provided by physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, and clinical nurse specialists and for the supervision of such acts which shall include, but are not limited to: ~~(3-19-99)~~(____)

b. ~~A P~~periodic review of a representative sample of medical records to evaluate the medical services that are provided. When applicable, this review shall also include an evaluation of adherence to the delegation of services agreement between the physician and physician assistant or graduate physician assistant; and ~~(3-19-99)~~(____)

04. Supervisory Responsibility. ~~A supervising physician or alternate supervising physician shall not supervise more than three (3) physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, or clinical nurse specialists contemporaneously. The Board, however, may authorize a supervising physician or alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety.~~ The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation or partnership, nor may they be assigned to another physician without prior notification and Board approval. ~~(7-1-93)~~(____)

SECTION 040 (Entire Section)

040. FEES.

The fee for supervising physician registration will be fifty dollars (\$50) and the annual renewal fee will be twenty-five dollars (\$25); provided however, alternate ~~or substitute~~ supervising physicians shall not be required to pay an annual renewal fee. The fee for directing physician registration will be ten dollars (\$10) and the annual renewal fee will be five dollars (\$5); provided however, alternate directing physicians shall not be required to pay an annual renewal fee. ~~(7-1-93)~~(____)

IDAPA 22 - BOARD OF MEDICINE

22.01.10 - RULES FOR THE REGISTRATION OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO

DOCKET NO. 22-0110-0301

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 Sections 54-3902 (7), 54-3907 and 54-3913 (1), (2) and (4), 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 proposed rule changes are required due to a revision of the Athletic Trainers Practice Act. These rule changes add or change definitions, define the scope of practice of the athletic trainer and define the responsibilities of directing physicians, clarify the requirements for initial application and renewal, provide for provisional licensure, amend the reinstatement process and fees and make other changes to update and clarify the rules.

Pursuant to negotiated rulemaking and public comment, the change between the text of the proposed rule change and the text of the pending rule provides for further clarification of the scope of practice and increases the requirements for the licensure for uncertified athletic trainers currently practicing in Idaho. The scope of practice now includes the provision that an athletic trainer treating or evaluating an athlete with an athletic injury incurred in association with an amateur or recreational sports club or organization shall especially consider the need for a directing physician to subsequently evaluate the athlete and refer for further athletic training services. The reason for the change in the requirements for the licensure for uncertified athletic trainers was to provide for proof of current cardiopulmonary resuscitation certification and, after 2006, require documentation of successful completion of a Board approved medical screening course for all initial renewals.

Pursuant to Section 67-5222 (1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, protect legal interests of the various professions, promote the public health, safety, and welfare and assure the availability of high quality athletic trainer services. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 367 through 380.

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 Section 54-3907, Idaho Code.

The fee schedule has been broadened, however, there will be no increase in fees.

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.

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

DATED this 18th day of November 2003.

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IDAPA22, TITLE 01, CHAPTER 10

RULES FOR THE ~~REGISTRATION~~ LICENSURE OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 367 through 380.

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0110-0301

SUBSECTION 012.02 and 012.03 (Partial Section)

012. SCOPE OF PRACTICE.

02. Referral By Directing Physician. An athletic injury not incurred in association with an educational institution, professional, amateur, or recreational sports club or organization shall be referred by a directing physician, but only after such directing physician has first evaluated the athlete. An athletic trainer treating or evaluating an athlete with an athletic injury incurred in association with an amateur or recreational sports club or organization shall especially consider the need for a directing physician to subsequently evaluate the athlete and refer for further athletic training services. ()

03. Limitations Of Scope Of Practice. The scope of practice of the athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician. ()

SECTION 013 and SUBSECTION 013.01 (Partial Section)

013. ATHLETIC TRAINING SERVICE PLAN OR PROTOCOL.

Each licensed athletic trainer providing athletic training services shall create, upon a form provided by the Board, an athletic training service plan or protocol with his directing physician. This athletic training service plan or protocol shall be reviewed and updated on an annual basis. Each licensed athletic trainer must notify the Board within thirty (30) days of any change in the status of his directing physician. This plan or protocol shall not be sent to the Board, but must be maintained on file at each location in which the athletic trainer is practicing. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter, Title 54, Chapter 39, Idaho Code, and to safeguard the public. This plan or protocol shall be made immediately available to the Board upon request. This plan or protocol shall be made immediately available to the Board of Chiropractic Physicians upon request for those athletic trainers whose directing physicians are chiropractic physicians. This plan or protocol shall include: ()

01. Listing Of Services And Activities. A listing of the athletic training services to be provided and specific activities to be performed by the athletic trainer. ()

SUBSECTIONS 014.02, 014.03, 014.05, and 014.07 (Partial Section)

014. DUTIES AND RESPONSIBILITIES OF DIRECTING PHYSICIANS.

02. Availability. The directing physician must be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. ()

03. Verbal Or Written Order. Prior to providing athletic training services, this direction will be provided by verbal order when the directing physician is present and by written order or by athletic training service plans or protocols, as established by Board rule, when the directing physician is not present. This direction shall include identifying acute athletic injuries or emergencies or sentinel events requiring the athletic trainer to immediate notify or refer to the directing physician. ()

05. Disclosure Requirement. Each directing physician shall ensure that each person who receives the services of an athletic trainer is aware of the fact that said person is an athletic trainer. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs or such other procedures that

under the involved circumstances adequately advise the person of the education and training of the person rendering athletic training services; ()

07. Complaints. The directing physician shall report to the Board of Medicine all complaints received related to allegations against the athletic trainer including, but not limited to, the quality and nature of athletic training services provided. ()

SUBSECTIONS 015.01, 015.03, and 015.04 (Partial Section)

015. REGISTRATION OF DIRECTING PHYSICIANS LICENSED TO PRACTICE MEDICINE AND SURGERY BY THE BOARD OF MEDICINE.

01. Registration And Renewal. Each directing physician and alternate directing physician, licensed to practice medicine and surgery by the Board, must register with the Board and such registration shall be renewed annually. ()

03. Notification. Each directing physician and alternate directing physician must notify the Board within thirty (30) days of any change in the status of any athletic trainer for whom he is responsible, including, but not limited to, changes in location, duties, responsibilities, or supervision, or termination of employment. ()

04. Fees. The registration fee for a directing physician shall be no more than ten dollars (\$10) and the annual renewal fee shall be no more than five dollars (\$5). Alternate directing physicians shall not be required to pay a registration or renewal fee. ()

0127. -- 019. (RESERVED).

SUBSECTIONS 030.02.a., .02.b.i., .02.b.ii., .02.d., and 030.03 (Partial Section)

030. APPLICATION FOR ~~REGISTRATION~~ LICENSURE.

032. Application For Provisional ~~Registration~~ Licensure. ()

a. The Board, based upon the recommendation of the Board of Athletic Trainers, ~~based upon the recommendation of the Board of Athletic Trainers,~~ may issue provisional ~~registration~~ licensure to applicants who ~~are actively participating in an internship program or curriculum of an institution approved by the Board and under the supervision of a registered athletic trainer~~ have successfully completed a bachelor's or advanced degree from an accredited four (4) year college or university, and met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and who have met all the other requirements set forth by Section 030 of these rules but who have not yet passed the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. A provisional ~~registration~~ license shall be valid for a term of one (1) year, but may be renewed only twice, at the discretion of the Board, ~~based upon the recommendation of the Board~~ of Athletic Trainers. (9-16-89)()

b. Each applicant for provisional licensure shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and contain the specific information in Subsection 030.01 and a provisional license athletic trainer/supervisor affidavit. ()

i. Affidavit. An affidavit signed by an Idaho licensed athletic trainer affirming and attesting to supervise and be responsible for the athletic training services of the provisionally licensed graduate athletic trainer and to review and countersign all records and documentation of services performed by the provisionally licensed graduate athletic trainer. ()

ii. Supervision. A provisionally licensed graduate athletic trainer shall be in direct association with his directing physician and Idaho licensed athletic trainer who shall supervise and be available to render direction in person and on the premises where the athletic training services are being provided. The directing physician and the supervising athletic trainer shall be responsible for the athletic training services provided by the provisionally licensed graduate athletic trainer. The supervising athletic trainer shall review and countersign all documentation of athletic training services performed by the provisionally licensed graduate athletic trainer. The extent of communication between the directing physician and supervising athletic trainer and the provisionally licensed graduate athletic trainer shall be determined by the competency of the provisionally licensed athletic trainer and the practice setting and the type of athletic training services being rendered. ()

d. Expiration of Provisional License. All provisional licenses for athletic trainers shall expire upon meeting the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and meeting all the other requirements set forth by Section 030 of these rules, including passing the certification examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. ()

03. Licensure For Uncertified Athletic Trainers Currently Practicing In Idaho. All athletic trainers holding current Idaho registration on July 1, 2003, who are not certified by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board, may be issued a license upon submitting a completed written application to the Board on forms prescribed by the Board; proof of current cardiopulmonary resuscitation certification; and payment of the prescribed fee. After 2006, all initial renewals shall require documentation of successful completion of a Board approved medical screening course on forms provided by the Board. Such approved medical screening course may be included in the required eighty (80) hours of continuing educational activities or units. ()

SECTION 040, SUBSECTIONS 040.01.b., 040.02, and 040.03 (Partial Section)

040. REGISTRATION LICENSURE (EXPIRATION AND RENEWAL).

All registrations shall expire on the 30th day of June following issuance or renewal and shall become invalid after that date unless renewed renewable licenses to practice as an athletic trainer shall be issued for a period of not less than one (1) year or more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year of a license. The failure of any licensee to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-3913, Idaho Code. The Board or the Board of Athletic Trainers may, at its discretion, require any applicant to appear for a personal interview when necessary to identify and evaluate the applicant's credentials. (9-16-89)()

01. Annual Renewal. ~~Each registration~~ All licenses shall be renewed ~~annually before July 1st~~ before the expiration date printed on the face of the certificate by submitting a completed request for renewal on forms provided by the Board and accompanied by payment of the renewal fee to the Board. ~~Registrations~~ Licenses not renewed by the expiration date shall be canceled unless disciplinary action is pending. Each renewal request shall also include documentation of: (9-16-89)()

b. If Not Currently Certified. After 2006, successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by

the Board. During the first three (3) year renewal reporting period, successful completion of the required Board approved medical screening course, which may be included in the required eighty (80) hours of continuing educational activities or units. ()

02. Reinstatement. ~~Registrations~~ Licenses canceled for non-payment of ~~yearly~~ renewal fees or lapsed for a period of less than three (3) consecutive years may be reinstated by filing a completed request for renewal on forms provided by the Board with the Board; ~~and~~ paying reinstatement fees; and providing documentation of good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board. Those athletic trainers previously licensed while not holding certification shall provide documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board. (9-16-89)()

03. Reapplication. A person whose ~~registration~~ license has been canceled or has lapsed for a period of more than ~~five~~ three (3) years shall be required to re-apply as a new applicant ~~by examination;~~ pay application fees; and document good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board. Those athletic trainers previously licensed while not holding certification shall provide documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period during the time the license has been canceled or has lapsed on forms provided by the Board, in lieu of current certification. The applicant shall successfully demonstrate to the Board, upon recommendation of the Board of Athletic Trainers, competency in the practice of athletic training. The Board, upon recommendation of the Board of Athletic Trainers, may also require the applicant to take an examination, remedial courses, or both, as shall be recommended by the Board of Athletic Trainers. (9-16-89)()

SUBSECTION 052.03.m. (Partial Section)

052. DENIAL OR REFUSAL TO RENEW ~~REGISTRATION~~ LICENSURE OR SUSPENSION OR REVOCATION OF ~~REGISTRATION~~ LICENSURE.

023. Unprofessional Conduct. The Board, upon recommendation of the Board of Athletic Trainers, may refuse to issue a ~~registration~~ license or provisional ~~permit~~ license, or to renew a ~~registration~~ license, or may suspend or revoke a ~~registration~~ license or provisional ~~permit~~ license, or may impose probationary conditions if the ~~holder of a registration or provisional permit~~ licensee or applicant for ~~registration~~ licensure or provisional ~~permit~~ license has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. Such unprofessional conduct includes, but is not limited to: (4-2-93)()

m. Inconsistence with or failure to limit the scope of practice of athletic training to the scope of practice of the directing physician. ()

SUBSECTIONS 061.02 through 061.05 (Partial Section)

061. FEES.

02. Annual Renewal Fee. The ~~annual~~ renewal fee shall be no more than eighty one hundred sixty dollars (\$8160) for each year renewed. (4-2-93)()

03. Provisional ~~Registration~~ Licensure Fee. A provisional license shall be valid for a term of one (1)

year, but may be renewed only twice, at the discretion of the Board upon recommendation of the Board of Athletic Trainers. The fee for a provisional ~~registration~~ license shall be no more than ~~forty~~ eighty dollars (\$480). The renewal fee for a provisional license shall be no more than forty dollars (\$40) for each year renewed. (~~9-16-89~~)()

04. Annual Renewal Fee - Inactive ~~Registration~~ Licensure. The ~~annual~~ renewal fee for inactive ~~registration~~ licensure shall be no more than eighty dollars (\$80) *for each year renewed.* (~~4-2-93~~)()

05. Reinstatement Fee. The reinstatement fee *for a license that has lapsed for a period of less than three (3) consecutive years shall be no more than ~~forty~~ fifty dollars (\$450) plus renewal fees for each renewal year. The fee for converting from an inactive status to full active licensure shall be no more than fifty dollars (\$50) plus the renewal fees for each year not actively licensed minus inactive renewal fees.* (~~9-16-89~~)()

APPENDIX A - CODE OF ETHICS (Partial Appendix)

The Athletic Trainer shall continually strive to increase and improve his ~~or her~~ knowledge and skills and render to each ~~patient~~ athlete the full measure of his ~~or her~~ ability. All athletic training services shall be provided with respect for the dignity of the ~~patient~~ athlete, unrestricted by considerations of social or economic status, personal attributes, or the nature of ~~health~~ the athlete's problems.

IDAPA 22 - BOARD OF MEDICINE

22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS IN IDAHO

DOCKET NO. 22-0111-0301

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 Sections 54-4304A, 54-4311, 54-4314 (1), and 54-4316, 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 proposed rule changes are required due to a change in the Respiratory Care Practice Act, Title 54, Chapter 43, Idaho Code. These changes will add definitions, define the requirements for application for permits for polysomnographic trainees, technicians and technologists, add additional grounds for disciplinary action and establish fees for initial permits and renewal.

Pursuant to negotiated rulemaking and public comment, the change between the text of the proposed rule change and the text of the pending rule provides for further clarification for the application of a polysomnographic trainee. The primary reason for the change was to assure the public health, safety and welfare in the state Idaho during the training period. To this end, an applicant must provide a signed affidavit from a designated person affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant.

Pursuant to Section 67-5222 (1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, and protect legal interests of the various health care professions. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 381 through 395.

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 54-4304A (6) (a) and (b), and 54-4311, Idaho Code.

This rule establishes a broadened fee schedule to include issuance and renewal of permits for polysomnographic

trainees, technicians and technologists. There will be no increase in fees for issuance and renewal of licenses for respiratory care practitioners.

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.

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

DATED this 18th day of November, 2003.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140, Boise, Idaho 83704
P.O. Box 83720, Boise, Idaho 83720-0058
Telephone: (208) 327-7000
Fax: (208) 327-7005

IDAPA22, TITLE 01, CHAPTER 11

**RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING
OF POLYSOMNOGRAPHERS IN IDAHO**

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-10, October 1, 2003, pages 381 through 395.](#)

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0111-0301

SUBSECTIONS 010.12, 010.24, and 010.27 (Partial Section)

010. DEFINITIONS.

~~08~~**12.** **Licensure Board.** The ~~L~~icensure ~~b~~Board established by this chapter and Section 54-4313, Idaho Code. ~~(4-28-93)~~()

~~17~~**24.** **Registered Pulmonary Function Technologist (RPFT).** The professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or an advanced pulmonary function certification examination administered by an equivalent board, recognized by the Board. ~~(4-28-93)~~()

~~15~~**27.** **Respiratory Care Practitioner.** A person who has been issued a license by the ~~b~~Board. ~~(4-28-93)~~()

SUBSECTION 011.01 (Partial Section)

011. BOARD OF MEDICINE AND LICENSURE BOARD.

01. Powers And Duties. The Board of Medicine shall administer, coordinate and enforce the provisions of this chapter and Title 54, Chapter 43, Idaho Code, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The Board is authorized to enter into such contracts with the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board, as may be necessary or advisable to provide for or to facilitate verification of any applicant's claim that such applicant has successfully completed the entry level examination and/or the written registry and clinical simulation examinations or comprehensive registry examination. The Licensure Board will work in conjunction with the Board and will perform the duties and functions assigned by the Board, including: ()

SECTION 032 and SUBSECTION 032.05.e. (Partial Section)

032. APPLICATION FOR LICENSURE AND PERMITS.

01. All Applications. Each applicant for licensure or permit shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified and under oath and shall require documentation of the following information: ~~(4-28-93)~~()

05. Application For Polysomnography Related Respiratory Care Practitioner. ()

e. Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. The Affiant need not be the direct supervisor at any given time. Such Affiant shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the

polysomnographic trainee's permit, the Affiant of the trainee changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant who will ensure that the trainee has direct supervision. In addition, the applicant shall provide written documentation he has at least one (1) of the following qualifications: ()

SUBSECTIONS 035.02.m. and .02.p. (Partial Section)

035. DENIAL OR REFUSAL TO RENEW LICENSE OR PERMIT OR SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

02. Impose Sanctions. The Board, upon recommendation of the Licensing Board, may refuse to issue a license or ~~temporary~~ permit, or to renew a license, or permit, or may suspend or revoke a license or permit, or may impose probationary conditions if the holder of a license or ~~temporary~~ permit or applicant for license or ~~temporary~~ permit has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to: ~~(2-23-94)~~()

m. In the case of practice as an individual entitled to exemption, conditional or temporary permit, the practice of respiratory care or polysomnography related respiratory care other than under the supervision of a respiratory care or appropriate polysomnography related respiratory care practitioner or licensed physician, as may be required by law; ~~(2-23-94)~~()

p. Aiding or abetting a person not licensed, registered or permitted in this state or exempt from such licensure, registration or permitting, who directly or indirectly performs activities requiring a license, registration or permit; ()

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0302

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are 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 pending rules. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code. The pending rule is being adopted as proposed.

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 changes in Rule 009 delete out-of-date provisions which are redundant with the Idaho Code and do not need to be in rule form. The changes in Rule 015 provide for expedited or emergency application fees, resubmittal, exceptional or special processing of application fees and for a credit for online electronic filing of applications as permitted by the 2003 legislative session. Only the sections that have changes different from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 446 through 448.

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

The fee for expedited or emergency applications for which there is a request to have the application pulled forward before other applications and have it processed and a license issued within seven (7) days of receipt of the application shall be \$150 for an outfitter license; \$75 for a designated agent license; and \$50 for a guide license. The fee for resubmittal, exceptional or special processing of an application which is incomplete or for other reasons for which the Board is otherwise unable to process the application shall be \$100 for an outfitter license; \$75 for a designated license; \$50 for a guide license; and \$5 for allocation fee recovery. There will be a credit for online and electronic filing of applications and a fee for the use of credit cards corresponding to the cost to the agency for processing the card as provided in Section 36-2108, Idaho Code.

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

DATED this 17th day of November, 2003.

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

IDAPA 25, TITLE 01, CHAPTER 01

RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

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 03-10, October 1, 2003, pages 446 through 448](#).

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.

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

SUBSECTION 015.09 (Partial Section)

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

09. ***Fees Associated With The Filing Of Applications.*** There shall be a credit for online and electronic filing of applications, and a fee for the use of credit cards corresponding to the cost to the agency for processing the card pursuant to Section 36-2108, Idaho Code. ()

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0301

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 Section 67-4223(a) Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 449 through 455.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The IDPR authority for imposing fees is found in Sec. 67-4223(g), Idaho Code. The temporary fee rules took effect on August 5, 2003.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dean Sangrey, 208-334-4180, ext. 250.

DATED this 14th day of November, 2003.

Rick Collignon, Director
Idaho Department of Parks and Recreation
5657 Warm Springs Ave., Boise ID 83716
PO Box 83720, Boise ID 83720-0065
208-334-4180 – FAX 208-334-5232

IDAPA 26, TITLE 01, CHAPTER 20

RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

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 03-10, October 1, 2003, pages 449 through 455.

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 33 - IDAHO REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Real Estate Commission and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by the 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, notice is hereby given that the Real Estate Commission has adopted a pending rule. The action is authorized pursuant to Section 54-2007, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule: The Commission has decided to permit licensees to "self-certify" their Continuing Education ("CE") compliance when renewing or reactivating a license. To be effective, of course, the certification is subject to verification. The Commission believes that allowing the licensee to self-certify his completion of the CE requirements - rather than submit a hefty packet of documents with the application - is a benefit to the licensee as well as the Commission. The Rules set forth the type of CE documentation the licensee will need to keep, and authorize the Commission to request the documentation in order to verify the certificate of compliance. The rules also provide that the license will be inactivated if he fails to comply with the Commission's request for verification, and restate for the licensee the consequences of submitting a false certificate (which already exist by statute). Finally, the rules list the "approved CE topics," which had previously been listed only in Policy. The standards set forth in these rules are deemed necessary by the Commission to allow it to continue this much-desired self-certification program.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 1, 2003 Idaho Administrative Bulletin, Volume 03-1, pages 199 through 202.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Donna Jones, (208) 334-3285 ext. 232.

Dated this 16th day of October, 2003.

Donna M. Jones, Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

IDAPA 33, TITLE 01, CHAPTER 01

RULES OF THE IDAHO REAL ESTATE COMMISSION

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-1, January 1, 2003, pages 199 through 202.](#)

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 34 - SECRETARY OF STATE

34.02.02 - RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

DOCKET NO. 34-0202-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Secretary of State and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by the 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, notice is hereby given that the Secretary of State has adopted a pending rule. The action is authorized pursuant to Sections 34-216, Idaho Code, and 42 U.S. Section 15512.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules 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. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 490 through 495.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Fred C. Goodenough at (208) 332-2862.

Dated this 19th day of November, 2003.

Fred C. Goodenough
Deputy Secretary of State
Commercial Division
700 West Jefferson St.
P.O. Box 83720
Boise, Idaho 83720

IDAPA 34, TITLE 02, CHAPTER 02

RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

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 03-10, October 1, 2003, pages 490 through 495.

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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0301
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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume. 03-10, pages 496 through 521.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

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

IDAPA 35, TITLE 01, CHAPTER 01

INCOME TAX ADMINISTRATIVE 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 03-10, October 1, 2003, pages 496 through 521.](#)

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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0302
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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 522 through 525.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

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

IDAPA 35, TITLE 01, CHAPTER 01

INCOME TAX ADMINISTRATIVE 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 03-10, October 1, 2003, pages 522 through 525.](#)

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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0303
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(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 526 through 528.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

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

IDAPA 35, TITLE 01, CHAPTER 01

INCOME TAX ADMINISTRATIVE 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 03-10, October 1, 2003, pages 526 through 528.](#)

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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0301
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(s) 63-105A, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 545 through 552.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, Alan Dornfest, at (208) 334-7530.

DATED this 13th day of November, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE 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 03-10, October 1, 2003, pages 545 through 552.](#)

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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0302
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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 553 through 557.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, Alan Dornfest, at (208) 334-7530.

DATED this 13th day of November, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE 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 03-10, October 1, 2003, pages 553 through 557.](#)

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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0303
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY 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(s) 63-105A, Idaho Code.

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

The proposed Rule 988 is being amended from the proposed text by the inclusion of the following Subsection 988.15 and the current Subsection 988.15 is being redesignated as Subsection 988.16.

The text of 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 original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 558 through 562.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 13th day of November, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE RULES

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 03-10, October 1, 2003, pages 558 through 562.](#)

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO 35-0103-0303

SUBSECTIONS 988.15 and 988.16 (Partial Section)

988. ELECTION OF QUALIFIED PROPERTY FOR EXEMPTION (Rule 988).

Sections 63-302, 63-313, 63-404, and 63-3029B, Idaho Code.

(1-1-04)T

***15. Public Records And Exemption Of Certain QIE Information From Disclosure.** Public records are presumed to be open to the public. Records containing certain information pertaining to private businesses (such as trade secrets and other proprietary information) may be exempt from public disclosure (See Section 9-340D, Idaho Code) and may be protected from disclosure by the Idaho Trade Secrets Act, Chapter 8 Title 48, Idaho Code, and other laws. A taxpayer who submits information to the State Tax Commission or to a county assessor or board of equalization in accordance with this rule may designate all or part of the information as confidential. The designation must be made in writing and clearly identify the particular information deemed confidential. In addition, the front page of the submission must prominently state that the document contains information designated as confidential. The State Tax Commission, the county assessor and board of equalization shall treat the designated information as confidential, exempt from disclosure under Section 9-340D, Idaho Code and as subject to the Idaho Trade Secrets Act (see Chapter 8 Title 48, Idaho Code). Nothing in this paragraph limits exchanges of information between or among the State Tax Commission and county officials otherwise authorized by law.* (1-1-04)T

***156. Cross Reference.** For more information relating to procedures and requirements for QIE, refer to Section 63-3029B, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administrative and Enforcement Rules," Rule 450, and IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719.* (1-1-04)T

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0301

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(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 568 through 572.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

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

IDAPA 35, TITLE 02, CHAPTER 01

TAX COMMISSION ADMINISTRATION AND ENFORCEMENT 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 03-10, October 1, 2003, pages 568 through 572.

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 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0302

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The proposed Rule 450 is being amended from the proposed text for reference changes. In Subsection 450.01. a reference change was made.

The text of 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 original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 573 and 574.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

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

IDAPA 35, TITLE 02, CHAPTER 01

TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

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 03-10, October 1, 2003, pages 573 and 574.](#)

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO 35-0201-0302

SUBSECTION 450.01. (Partial Section)

450. PROPERTY TAX EXEMPTION PENALTY (Rule 450).

Section 63-3029B, Idaho Code.

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01. In General. If a taxpayer is electing or has elected the property tax exemption allowed by Section 63-3029B, Idaho Code, for property sold or otherwise disposed of, or that ceases to qualify or failed to originally qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a penalty shall be computed by the Tax Commission. See IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 988, for information related to the election of qualified property for exemption. See IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719, for information related to the requirement that the taxpayer had negative Idaho taxable income in the second preceding taxable year from the taxable year in which the qualified property was placed in service. ()

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.02.03 - WATER SUPPLY BANK RULES

DOCKET NO. 37-0203-0301

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 42-1762, 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.

Rule 40.05 is to be amended to provide that the Board may, upon good cause being determined by the Board, approve amendments to approved rental pool procedures submitted after April 1 of any year. The rules are additionally amended to add or modify certain nonsubstantive mandatory sections to comply with the requirements of the Office of Administrative Rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, pages 575 through 577.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Hal Anderson, (208) 327-7910.

DATED this 12th day of November, 2003.

Jerry R. Rigby, Chairman
Idaho Water Resource Board
1301 N. Orchard St.
P. O. Box 83720, Boise, Idaho 83720-0098P
Phone: (208) 327-7900 Fax: (208) 327-7866

IDAPA 37, TITLE 02, CHAPTER 03

WATER SUPPLY BANK 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 03-10, October 1, 2003, pages 575 through 577.](#)

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 50 - COMMISSION OF PARDONS AND PAROLE
50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE
DOCKET NO. 50-0101-0302
NOTICE OF RULEMAKING - 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 20-223(a), Title 67, Chapter 52, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 4, 2003 Idaho Administrative Bulletin, Volume 03-6, pages 88 through 94.

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

DATED this 17th day of November, 2003.

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

IDAPA 50, TITLE 01, CHAPTER 01

RULES OF THE COMMISSION OF PARDONS AND PAROLE

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 03-6, June 4, 2003, pages 88 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 57 - SEXUAL OFFENDER CLASSIFICATION BOARD

57.01.01 - RULES GOVERNING THE SEXUAL OFFENDER CLASSIFICATION BOARD

DOCKET NO. 57-0101-0401 - (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 18-8314, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 21, 2004.

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

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

This is a new chapter. (1) Rulemaking addresses the need for quality, uniformity and consistency in sexual offender evaluations provided to the courts prior to sentencing; (2) Establishes an application system to certify sexual offender evaluators; (3) Provides quality assurance for evaluators and evaluations; (4) Adopts into rule, procedures set by the Sexual Offender Classification Board for designating high-risk sexual offenders as Violent Sexual Predators.

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

For the protection of public health, safety, and welfare and to comply with state law. This rulemaking is initiated to comply with the provisions of Senate Bill 1002 passed by the 2003 Legislature and signed into law by the Governor on April 8, 2003.

FEE SUMMARY: Pursuant to Section 18-8314(3)(c), Idaho Code, an application-processing fee is required for all qualified providers seeking sexual offender evaluator certification. The application fee for initial certification is \$75. The application fee for annual certification renewal is \$50.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Evaluator qualifications are unchanged from those set by the Sexual Offender Classification Board in the year 2000, pursuant to Section 18-8314, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kathy Baird, Management Assistant, at (208) 658-2149.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2004.

DATED this 17th day of November, 2003.

Kathy Baird, Management Assistant
Sexual Offender Classification Board
1299 N. Orchard St., Suite 110
Boise, ID 83706
(208) 658-2149 phone; (208) 327-7102 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 57-0101-0401

IDAPA 57
TITLE 01
CHAPTER 01

57.01.01 - RULES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 18-8314(7), Idaho Code, to implement the provisions of Sections 18-8312 through 18-8321, Idaho Code. (1-1-04)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 57.01.01, "Rules of the Sexual Offender Classification Board". (1-1-04)T

02. Scope. These rules provide procedures for the Sexual Offender Classification Board to: (1-1-04)T

a. Determine whether a sexual offender should be designated as a Violent Sexual Predator; (1-1-04)T

b. Set qualifications and standards for certified evaluators; (1-1-04)T

c. Approve, issue, renew, deny, suspend or revoke psychosexual evaluator certification; and (1-1-04)T

d. Establish fees for applicants seeking certification and certified evaluators seeking annual certification renewal. (1-1-04)T

03. Relationship To The Department Of Correction. The board is created in the Department of Correction, and relies upon it for fiscal and administrative support. The board members are appointed by the governor. The board's powers and duties are separate from the Department of Correction, and are set forth in Section 18-8314, Idaho Code. (1-1-04)T

002. WRITTEN INTERPRETATIONS.

The board may have written statements that pertain to the interpretation of the rules of this chapter. These interpretations, if any, may be found on the board's website. (1-1-04)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals shall be governed by the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (1-1-04)T

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (1-1-04)T

01. Association For The Treatment Of Sexual Abusers Professional Code Of Ethics, 2001 Edition. This document is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005. (1-1-04)T

02. Practice Standards And Guidelines For Members Of The Association For The Treatment Of

Sexual Abusers, 2001 Edition. This document is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005. (1-1-04)T

03. The Sexual Offender Board's "Required Format For Psychosexual Evaluations, July 2003 Revision". This document is available from the board, and is posted on the board's website. (1-1-04)T

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

The Sexual Offender Classification Board administrative office is located at the Department of Correction headquarters, 1299 North Orchard, Suite 110, Boise, Idaho 83706. Business hours are typically 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is Office of the Sexual Offender Classification Board, 1299 North Orchard, Suite 110, Boise, Idaho 83706. The telephone number is (208) 658-2149. The facsimile number is (208) 327-7102. The board's website address is <http://www.state.id.us/socb>. (1-1-04)T

006. PUBLIC RECORDS ACT COMPLIANCE.

01. Administrative Rules. The rules contained herein are promulgated pursuant to Title 67, Chapter 52, Idaho Code, and are public records. (1-1-04)T

02. Public Records Requests. Requests for public information are processed in compliance with Sections 18-8321, 18-8323, and 20-223, Idaho Code; IDAPA 06.01.01, "Rules of the Board of Correction"; and the Idaho Public Records Act. (1-1-04)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Board. The Sexual Offender Classification Board described in Section 18-8312, Idaho Code. (1-1-04)T

02. Central Roster Of Certified Evaluators. A roster of evaluators certified by the board as meeting the qualifications to perform psychosexual evaluations. (1-1-04)T

03. Certified Evaluator. Either a psychiatrist licensed by this state pursuant to Title 54, Chapter 54, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to Title 54, Chapters 23, 32, or 34, Idaho Code. The evaluator shall have by education, experience and training, expertise in the assessment and treatment of adult sexual offenders, shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in Sections 18-8314, Idaho Code. (1-1-04)T

04. Client. A person receiving mental health services from a certified evaluator. A client may be a person who is not a sexual offender. (1-1-04)T

05. Evaluation. For the purpose of certification eligibility, defined as the direct provision of comprehensive evaluation and assessment services to an adult who has been convicted of a sexual offense. The evaluation must be related to the client's sexual offending behavior. (1-1-04)T

06. Mental Abnormality. A congenital or acquired condition affecting a person's emotional or volitional capacity in a manner that predisposes him to commit criminal sexual acts and makes him a menace to the health, safety, or both, of other persons. (1-1-04)T

07. Personality Disorder. A congenital or acquired physical or mental condition resulting in a general lack of power to control sexual impulses. (1-1-04)T

08. Predatory. Actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior. (1-1-04)T

09. Psychosexual Evaluation. A comprehensive evaluation and assessment specifically addressing an offender's sexual development, sexual deviancy, sexual history and risk of re-offense. (1-1-04)T

10. Quality Assurance. Technical review of a psychosexual evaluation to assure minimum standards are met. The board conducts the review. (1-1-04)T

11. Sexual Offender. A person convicted of an offense as listed in Section 18-8304, Idaho Code, or a substantially equivalent offense under the laws of another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts. (1-1-04)T

12. Sexually Violent Offense. A criminal offense as listed in Section 18-8314, Idaho Code; or engaging in physical contact with another person with intent to commit sexual abuse or aggravated sexual abuse as described in Sections 2241 and 2242 of Title 18, United States Code, and Section 18-8303(1), Idaho Code. (1-1-04)T

13. Treatment. For the purpose of certification eligibility, defined as the provision of face-to-face individual, group, or family therapy with a person who has been investigated by law enforcement or child protective services for commission of a sexual offense, or who has been adjudicated or convicted of a sexual offense. Treatment must be directly relevant to the client's sexually offending behavior. (1-1-04)T

14. Victim. A person, including the immediate family of a minor, named in the complaint, information or indictment, who suffers physical or emotional injury as the result of the offender's criminal conduct. (1-1-04)T

15. Violent. Engaging in displayed, physical, or verbal sexual contact with a non-consenting person or a person who is unable to give legal consent whether due to age, or mental or physical incapacitation. Contact is considered as actual, attempted, or an act perpetrated with the intent to commit sexual contact. (1-1-04)T

16. Violent Sexual Predator. A person convicted of an offense listed in Section 18-8314, Idaho Code, and who is determined by the board to pose a high risk of committing an offense or engaging in predatory sexual conduct. (1-1-04)T

011. ABBREVIATIONS.

01. ATSA. The Association for the Treatment of Sexual Abusers. (1-1-04)T

02. DSM-IV. The "Diagnostic and Statistical Manual of Mental Disorders – Version 4" of the American Psychiatric Association. (1-1-04)T

03. IDOC. The Idaho Department of Correction. (1-1-04)T

04. VSP. Violent Sexual Predator. (1-1-04)T

012. -- 019. (RESERVED).

020. RECORD KEEPING.

01. Evaluators. Records on all applicants and certifications issued, renewed, denied, suspended and revoked shall be maintained for a period not less than five (5) years. (1-1-04)T

02. Violent Sexual Predators. The sexual offender's file maintained by the board is considered the official file for all purposes. (1-1-04)T

021. BOARD MEETINGS.

01. Meetings. The board meets at least quarterly and may meet more frequently. All business of the board is conducted in compliance with the open meeting law, pursuant to Title 67, Chapter 23, Idaho Code, and Section 18-8315, Idaho Code. (1-1-04)T

02. Agenda. An agenda for each regularly scheduled meeting is posted in the IDOC central office at least twenty-four (24) hours prior to the regularly scheduled meeting. (1-1-04)T

022. -- 030. (RESERVED).

031. OFFENDERS SUBJECT TO EVALUATION.

01. Pre-Sentence. Sexual offenders convicted on or after July 1, 1993 of any offense listed in Section 18-8304, Idaho Code, are subject to psychosexual evaluation prior to sentencing, if ordered by the court. (1-1-04)T

02. Pre-Release. Prior to release from incarceration, the board reviews any sexual offender as listed in Section 18-8314(1), Idaho Code, who has been referred by the IDOC or the Commission for Pardons and Parole, for possible VSP designation. (1-1-04)T

03. Under IDOC Supervision. (1-1-04)T

a. Upon request of the Commission for Pardons and Parole, a sexual offender as listed in Section 18-8314(1), Idaho Code, who has been released on parole and referred by his supervising officer, shall be reviewed by the board for possible VSP designation. (1-1-04)T

b. Upon request of the court having jurisdiction over the offender, a sexual offender as listed in Section 18-8314(1), Idaho Code, who has been released on probation and referred by his supervising officer, shall be reviewed by the board for possible VSP designation. (1-1-04)T

032. -- 039. (RESERVED).

040. CERTIFIED EVALUATOR QUALIFICATIONS.

Each evaluator who performs adult psychosexual evaluations pursuant to Sections 18-8316 and 18-8317, Idaho Code, must meet the qualifications as set forth in Section 040 and be certified by the board. (1-1-04)T

01. Credential. The evaluator's credential must be in good standing with no currently pending disciplinary action by the issuing authority. The certified evaluator shall be a recognized professional, who specializes in evaluation and treatment of adult sexual offenders. (1-1-04)T

02. Educational And Professional Qualifications. A certified evaluator must be: (1-1-04)T

a. A licensed psychiatrist pursuant to Title 54, Chapter 18, Idaho Code; or (1-1-04)T

b. A licensed masters or doctoral level mental health professional pursuant to Title 54, Chapters 23, 32, or 34, Idaho Code. (1-1-04)T

03. Specialized Training. (1-1-04)T

a. For initial certification, the applicant must have attended forty (40) hours of formal conferences, symposia, or seminars related to the treatment and evaluation of adult sexual offenders within the preceding two (2) years. These forty (40) hours must include: (1-1-04)T

i. Sixteen (16) hours of training in adult sexual offender evaluation; (1-1-04)T

ii. Sixteen (16) hours of training in adult sexual offender treatment; and (1-1-04)T

iii. Eight (8) hours of additional training in adult sexual offender treatment, adult sexual offender evaluation, or treatment of victims of a sexual offense. (1-1-04)T

04. Experience Qualifications. A certified evaluator shall have at least two thousand (2,000) hours of adult sexual offender treatment and evaluation experience within the preceding seven (7) years. The two thousand (2,000) hours must include: (1-1-04)T

a. At least two hundred fifty (250) hours of adult sexual offender evaluation experience; and

(1-1-04)T

- b. At least two hundred fifty (250) hours of adult sexual offender treatment experience. (1-1-04)T

05. Continuing Education Requirement. To maintain certification, attendance at forty (40) hours within the preceding two (2) years of formal conferences, symposia, or seminars related to the treatment and evaluation of adult sexual offenders, is required. (1-1-04)T

06. Understanding. A certified evaluator shall have a thorough understanding of counter-transference issues and a broad knowledge of sexuality in the general population. A certified evaluator shall also have a good understanding of basic theories and typologies of sexual offenders and sexual assault victims. (1-1-04)T

041. STANDARDS FOR PROFESSIONAL CONDUCT AND CLIENT RELATIONS.

- 01. General Considerations.** A certified evaluator shall: (1-1-04)T

- a. Be fully aware of and adhere to the standards of his area of credentialing; (1-1-04)T

b. Subscribe to the ATSA treatment philosophy, the ATSA Professional Code of Ethics, and the ATSA Practice Standards and Guidelines, as referenced in Section 004; (1-1-04)T

c. Be knowledgeable of statutes and scientific data relevant to specialized adult sexual offender evaluation; (1-1-04)T

d. Be familiar with the statutory requirements for assessments and reports for the courts, pursuant to Sections 18-8316 and 18-8317, Idaho Code; (1-1-04)T

- e. Be committed to community protection and safety; (1-1-04)T

f. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgement and risk exploitation; (1-1-04)T

- g. Have no sexual relationships with any client. (1-1-04)T

042. RECIPROCITY.

The board may consider reciprocity for any applicant who has been licensed or certified to perform sexual offender evaluations in another state. An applicant requesting consideration for reciprocity shall submit an initial certification application as outlined in Section 050. (1-1-04)T

043. -- 049. (RESERVED).

050. CERTIFIED EVALUATOR APPLICATION.

- 01. Application For Initial Certification.** An applicant seeking certified evaluator status must submit: (1-1-04)T

a. A completed application on forms provided by the board, accompanied by documents indicated in Subsection 050.02; and (1-1-04)T

- b. An application fee of seventy-five dollars (\$75), payable to the board. (1-1-04)T

02. Documentation. The certification application must be submitted to the board, accompanied by: (1-1-04)T

- a. Proof of professional licensure; (1-1-04)T

- b. Assurances and release form; (1-1-04)T

- 040;
- c. Verification of educational, professional, and experience qualifications as established in Section (1-1-04)T
 - d. A statement of fees the applicant charges for evaluation and related services; and (1-1-04)T
 - e. Copies of two (2) psychosexual evaluations completed by the applicant within the past year, with names and identifying characteristics redacted. (1-1-04)T

03. Certification Period, Posting Requirement, And Notification Of Changes. The certification, unless suspended or revoked, is effective for one (1) calendar year from the date of issue printed on the certificate. The certification applies only to the person named therein and is not transferable. The board must be notified in writing of any changes in the certified evaluator's business address, phone number, or fees for evaluation or related services, within thirty (30) days of such changes. (1-1-04)T

04. Expiration And Renewal Of Certification. No certification shall be renewed, except as follows: (1-1-04)T

- a. At least sixty (60) days prior to the expiration of the certification, the certified evaluator shall apply for renewal of the certification on forms provided by the board. (1-1-04)T
- b. The renewal application must be accompanied by: (1-1-04)T
 - i. Proof of professional licensure; (1-1-04)T
 - ii. Assurances and release form; (1-1-04)T
 - iii. Verification of continuing education participation as required in Subsection 040.05; (1-1-04)T
 - iv. A statement of fees the applicant charges for evaluation and related services; (1-1-04)T
 - v. An application renewal fee of fifty dollars (\$50), payable to the board; and (1-1-04)T
 - vi. Copies of two (2) psychosexual evaluations completed by the applicant within the past year, with names and identifying characteristics redacted. (1-1-04)T
- c. An evaluator who has not renewed his certification shall be removed from the evaluator roster thirty (30) days after his certification has expired. (1-1-04)T
- d. An evaluator whose certification has been expired for less than one (1) year, may reapply for certification following the certification renewal process outlined in Subsection 050.04. (1-1-04)T
- e. An evaluator whose certification has been expired for one (1) year or longer, may reapply for certification following the initial certification process outlined in Subsection 050.01. (1-1-04)T

051. REQUEST FOR CONDITIONAL WAIVER.

The board may consider an applicant's request for conditional waiver. Conditional waiver requests shall only be considered for deficiencies in experience qualifications as established in Subsection 040.04. (1-1-04)T

- 01. Request.** A request for conditional waiver must be submitted with the initial certification application. (1-1-04)T
- 02. Representation.** An applicant who is granted a conditional waiver may not represent himself as a certified evaluator. (1-1-04)T
 - a. An evaluator who is granted a conditional waiver shall indicate on the psychosexual evaluation signature line that he is an approved psychosexual evaluator by waiver. (1-1-04)T

b. The evaluator roster shall identify an evaluator who is granted a conditional waiver, and indicate the date his waiver shall expire. (1-1-04)T

03. Renewal. A conditional waiver is limited to a period of two (2) years. Conditional waivers may not be extended or renewed after two (2) years. (1-1-04)T

a. An evaluator who has been granted a conditional waiver may apply to renew his waiver after the first year, utilizing the certification renewal process indicated in Subsection 050.04. (1-1-04)T

b. Documentation must be included with the renewal application verifying the applicant's progress in attaining full qualification requirements. (1-1-04)T

c. An evaluator who fails to demonstrate progress in attaining full qualification requirements after the first year, may not be approved for renewal of the conditional waiver for the second year. The evaluator shall be removed from the evaluator roster. (1-1-04)T

052. -- 059. (RESERVED).

060. CENTRAL ROSTER OF CERTIFIED EVALUATORS.

The board shall publish a roster indicating the names of certified evaluators, business addresses, and fees for evaluation and related services. Only certified evaluators listed on the roster are eligible to conduct pre-sentence psychosexual evaluations pursuant to Section 18-8316, Idaho Code. A copy of the roster may be obtained from the board, and is posted on the board's website. (1-1-04)T

061. EXCLUSION.

Mental health employees of the Department of Correction, who conduct psychosexual evaluations pursuant to Section 18-8317, Idaho Code, are exempt from the certification process. (1-1-04)T

062. -- 069. (RESERVED).

070. DENIAL AND REVOCATION OF CERTIFICATION.

01. Cause. The board may deny, suspend, or revoke certification of an applicant or certified evaluator for any of the following reasons: (1-1-04)T

a. Failure to comply with any portion of this chapter. (1-1-04)T

b. Failure to meet the qualifications as required in Section 040. (1-1-04)T

c. Falsification of any information or documentation, or concealing a material fact in the application for certification. (1-1-04)T

d. Failure to furnish any data, information or records as requested. (1-1-04)T

e. Demonstration of inadequate knowledge. (1-1-04)T

f. Performance of two (2) or more psychosexual evaluations during the current certification period that the board finds are below standard. (1-1-04)T

g. Unsatisfactory results of the background investigation, or any other aspect of the application process. (1-1-04)T

h. Refusal or failure to participate in the quality assurance process. (1-1-04)T

i. A guilty plea or conviction for a felony criminal offense or a misdemeanor offense against a person. (1-1-04)T

j. A domestic violence protective order issued against the applicant or evaluator within the previous five (5) years. (1-1-04)T

k. A criminal, civil or administrative determination that the evaluator has committed, permitted, or aided and abetted the commission of any illegal act while holding an evaluator certification. (1-1-04)T

l. Accepted a gift or favor from a sexual offender being assessed, from the family of the sexual offender being assessed, or from their agent. (1-1-04)T

m. Provided a gift or favor to a sexual offender being assessed, to the family of the sexual offender being assessed, or to their agent. (1-1-04)T

n. Unless permitted by the court, demonstration of a conflict of interest by providing both the psychosexual evaluation and treatment or by referring the sexual offender to the evaluator's employer or business associate. (1-1-04)T

02. Reapplication. An applicant or certified evaluator may reapply for certification under the following conditions: (1-1-04)T

a. An applicant whose certification is denied, may reapply when evidence is available to confirm attainment of qualifications as required in Section 040. (1-1-04)T

b. A certified evaluator whose certification has been revoked, may request permission to reapply for certification after one (1) year following revocation. (1-1-04)T

c. Permission to seek certification following revocation is granted solely within the discretion of the board. (1-1-04)T

03. Second Revocation. Upon a second certification revocation, no further certification shall be issued. (1-1-04)T

071. -- 079. (RESERVED).

080. NOTICE OF INTENT.

The board must provide the applicant or certified evaluator with notice of intent to deny, suspend, or revoke certification, and the right to appeal. (1-1-04)T

01. Notification Of Applicant. The board shall notify the applicant or certified evaluator of the board's intent to deny, suspend or revoke certification. The notice shall be mailed to the applicant or certified evaluator by certified mail. (1-1-04)T

02. Contents Of Notice. The notice shall: (1-1-04)T

a. State the basis for the intended action of the board; (1-1-04)T

b. May suggest means by which the matter might be remedied; and (1-1-04)T

c. Shall provide the applicant or certified evaluator an opportunity to answer, or to show cause in the matter. (1-1-04)T

081. APPEAL.

The applicant or certified evaluator shall have not more than thirty (30) days from the date the notice is served to file a written appeal of the board's statement of intended action. The written appeal shall include documentation supporting the appellants' argument refuting the board's intended action. (1-1-04)T

082. HEARING OFFICER.

A hearing officer, designated by the board, shall receive and distribute to all board members copies of the written appeal, and any additional information, data, documents or references for the board's consideration. The hearing officer shall set the appeal hearing time and place, and submit notices to all parties. (1-1-04)T

083. HEARING.

01. Hearing Procedures. Procedures for a hearing before the board are governed by the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (1-1-04)T

a. The appeal hearing shall be conducted during a regular board meeting. The board shall review the written appeal, and any additional information, data, documents or references furnished by the appellant. The board reserves authority to place reasonable limitations on the time allotted to conduct the hearing. The board also reserves the option to delegate authority to the hearing officer to conduct additional fact finding, for further review by the board. (1-1-04)T

b. Appeal hearings may be conducted by teleconference. (1-1-04)T

c. All board members are entitled to attend and participate in a hearing. (1-1-04)T

d. Appeal determinations shall be conducted during executive session. (1-1-04)T

02. Final Notice. The applicant or certified evaluator shall be notified by certified mail within two (2) weeks of the board's final decision concerning the action being appealed. (1-1-04)T

084. -- 089. (RESERVED).

090. COMPLAINTS.

01. Complaints. Any individual may file against an evaluator by submitting a written complaint to the board. A complaint must include: (1-1-04)T

a. The full name and address of the complainant; (1-1-04)T

b. The name, address, and telephone number (if known) of the evaluator; and (1-1-04)T

c. A clear and accurate statement of the facts describing the allegations against the evaluator. (1-1-04)T

02. Screening. The hearing officer shall investigate all complaints to determine appropriateness for board action. (1-1-04)T

a. Complaints determined to be more appropriate for intervention by another oversight agency shall be referred to that oversight agency. (1-1-04)T

b. Some complaints may be appropriate for intervention by the board and referral to another oversight agency. (1-1-04)T

c. If, after investigation, the facts and evidence are insufficient to warrant board review, no further action shall be taken. (1-1-04)T

091. NOTICE OF COMPLAINT.

01. Notice. The certified evaluator shall be notified in writing of the complaint filed against him and the board's investigation of the complaint. (1-1-04)T

02. Rights to Hearing. The certified evaluator shall be provided the opportunity to appear before the

board to present his position concerning the allegations of the complaint. Hearing procedures outlined in Section 083 shall apply. (1-1-04)T

092. -- 099. (RESERVED).

100. QUALITY ASSURANCE AND TECHNICAL REVIEW.

The board shall develop policies concerning quality assurance of psychosexual evaluations, and recommendations for quality and performance improvements. (1-1-04)T

101. -- 109. (RESERVED).

110. PSYCHOSEXUAL EVALUATION.

Psychosexual evaluations shall be submitted in the format developed by the board and include the information delineated in the "Required Format for Psychosexual Evaluations" as referenced in Section 004. (1-1-04)T

111. -- 119. (RESERVED).

120. EVALUATION FOR VIOLENT SEXUAL PREDATOR REVIEW.

The sexual offender referred to the board for VSP review shall be evaluated as set forth in Section 110. (1-1-04)T

01. Evaluation Process. (1-1-04)T

a. The evaluator shall inform the sexual offender that the psychosexual evaluation is part of the board's review to determine if the offender should be designated as a VSP. (1-1-04)T

b. The sexual offender shall have an opportunity for input at the time of the psychosexual evaluation. (1-1-04)T

c. Polygraph examination may be waived by the board. (1-1-04)T

121. FAILURE TO COOPERATE.

Public safety takes precedence over the decision of a sexual offender not to cooperate with the evaluation. The sexual offender shall be informed that the board may designate an offender as a VSP if he fails to cooperate with the psychosexual evaluation process or refuses to release records. (1-1-04)T

122. INTENTION TO RE-OFFEND.

If credible evidence supports a finding that a sexual offender has indicated an intention to re-offend, the offender shall be referred to the board. Pursuant to Section 18-8314(5), Idaho Code, the sexual offender shall be designated as a VSP. (1-1-04)T

123. SCOPE OF EVALUATION.

The board and the evaluator conducting the psychosexual evaluation may have access to and may review all necessary records on the sexual offender to conduct the assessment. (1-1-04)T

124. -- 129. (RESERVED).

130. BOARD REVIEW.

The board shall assess how biological, psychological, and situational factors, may cause or contribute to the offender's sexual behavior. (1-1-04)T

01. Evidence. (1-1-04)T

a. The board may collect documentary evidence in the form of copies, facsimiles, hearsay, or excerpts. (1-1-04)T

b. The board may take notice of any facts that could be judicially noticed in the courts of this state, and generally recognized technical or scientific facts within the board's specialized knowledge. (1-1-04)T

c. The board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. (1-1-04)T

d. The board may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds. (1-1-04)T

e. The board is not obligated to accept or review oral statements or documents, other than those of the victim. (1-1-04)T

f. All other evidence may be admitted. (1-1-04)T

02. Review. The board's review for VSP designation is conducted in executive session pursuant to Section 18-8315, Idaho Code. The board may authorize individuals to attend a designated period of the executive session. (1-1-04)T

03. Teleconference. A review conducted by teleconference is permitted. (1-1-04)T

131. DEMONSTRATION OF HIGH RISK.

The board determines if a prima facie case exists to justify the sexual offender's designation as a VSP. A sexual offender shall be designated as a VSP if his risk of re-offending sexually or threat of violence is of sufficient concern to warrant the designation for the safety of the community. (1-1-04)T

132. BOARD VOTE.

The board reviews documentation and makes a determination whether a sexual offender presents a high risk of re-offense, and whether the sexual offender should be designated as a VSP. (1-1-04)T

01. Member Exclusion. A board member who has had prior association with the sexual offender being reviewed is excluded from the discussion and voting process on that offender. (1-1-04)T

02. Vote. A majority vote to designate a sexual offender is required. (1-1-04)T

a. Votes are taken and recorded in executive session pursuant to Section 18-8315, Idaho Code. (1-1-04)T

b. Votes of individual members are not public record. (1-1-04)T

03. Decision. (1-1-04)T

a. The board may conclude from the evidence that the sexual offender has or probably has a mental abnormality or personality disorder, causing or contributing to the sexual offender's risk of re-offense. (1-1-04)T

b. The board may designate a sexual offender as a VSP with or without a finding of mental abnormality or personality disorder. (1-1-04)T

c. The decision of the board is recorded in the minutes of the regular meeting. (1-1-04)T

d. The results of any designation action may be requested by submitting a public record request to the board. (1-1-04)T

133. FINDINGS.

The board makes written findings that include the risk assessment; the reasons upon which the risk assessment was based; the determination whether the sexual offender should be designated as a VSP; and the reasons upon which the determination was based. (1-1-04)T

134. NOTICE OF DESIGNATION AS A VIOLENT SEXUAL PREDATOR.

Pursuant to Sections 18-8319(2) and 18-8320, Idaho Code, the sexual offender, the sheriff of the county where the

sexual offender resides or intends to reside upon release, the central registry, and the IDOC, are notified of the offender's designation as a VSP. Notice is in the form of the board's written findings. (1-1-04)T

135. -- 139. (RESERVED).

140. JUDICIAL REVIEW.

A sexual offender designated as a VSP has the right to judicial review of the designation, pursuant to Section 18-8321, Idaho Code. A request for judicial review must be filed with the courts no more than fourteen (14) calendar days after receiving the "Notice of Designation as a VSP," from the board. (1-1-04)T

141. -- 149. (RESERVED).

150. VICTIMS.

The board respects and complies with the rights of victims as identified in Section 19-5306, Idaho Code, and Article I, Section 22, Idaho Constitution. (1-1-04)T

151. LOCATING VICTIMS.

01. Attempt to Locate. The board shall make a good faith effort to locate the victim of the sexual offender's crime of conviction. The purpose for this effort is to inform the victim of the sexual offender's referral for VSP designation review. (1-1-04)T

02. Methods. In effort to locate the victim, the board may use information contained in IDOC or Commission for Pardons and Parole records, telephone directories, or contact with the county where the case was tried. (1-1-04)T

03. Decision. If the victim has been located, the board notifies the victim of the VSP designation action. (1-1-04)T

04. No Contact. The board respects the right of the victim to not be contacted. (1-1-04)T

152. VICTIM PARTICIPATION.

The victim or person representing the victim, or both, is afforded an opportunity to testify or submit written documents for the board's consideration. (1-1-04)T

01. Meeting. The victim or person representing the victim, or both, is permitted to attend the portion of the executive session review pertaining to the specific sexual offender. The chairman has discretion to limit the allotted time for testimony by the victim or person representing the victim, or both. The victim or person representing the victim, or both, is excluded during any vote. (1-1-04)T

a. The victim or person representing the victim, or both, is permitted to review documents not restricted by law that are being considered as evidence by the board. (1-1-04)T

b. Before taking testimony from the victim, the board shall use reasonable means to verify the identity of the victim or person representing the victim, or to verify the authenticity of written statements. (1-1-04)T

c. The board may exclude evidence if the board determines the evidence is irrelevant, unduly repetitious, unreliable or excludable on constitutional or statutory grounds. (1-1-04)T

02. Victim Confidentiality Protected. Communications between the board and victim or person representing the victim, or both, are confidential. Information identifying the victim or the location of the victim is exempt from disclosure, pursuant to Section 18-8321(3)(a) and (b), Idaho Code. (1-1-04)T

153. -- 999. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0401

NOTICE OF FINAL DECISION ON THE SOUTH FORK CLEARWATER RIVER TMDL

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the South Fork Clearwater River Total Maximum Daily Load.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the South Fork Clearwater River TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the South Fork Clearwater River TMDL (Hydrologic Unit Code 17060305) addresses twelve (12) waters and one (1) lake on Idaho's 1998 Section 303(d) list for being impaired by one or more pollutants. The twelve (12) listed waters comprise all or parts of sixteen (16) water bodies. In addition, the subbasin assessment identified fifty-eight (58) other water bodies in the subbasin that warranted temperature TMDLs. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at www.deq.state.id.us/water/tmdls/south_fork_clearwater/south_fork_clearwater_final.htm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, mbridges@deq.state.id.us.

Dated this 7th day of January, 2004.

Paula J. Gradwohl
Hearing Coordinator
Department of Environmental Quality
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. 58-0101-0302

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before January 21, 2004. If no such written request is received, a public hearing will not be held.

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

DESCRIPTIVE SUMMARY: 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.

In this rulemaking DEQ has proposed 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 changes the 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.

The proposed rule text is in legislative format and can be found at Subsection 322.11. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality for adoption of a temporary and pending rule. The temporary rule is expected to be effective before June 28, 2004. The pending rule will become final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

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

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812 - 815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, November 5, 2003, Volume 03-11, page 87.

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

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

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before January 28, 2004.

DATED this 21st day of November, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0302

322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.

All Tier I operating permits shall contain and the Department shall have the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions shall be included in the Tier I operating permit in the same manner as stack emissions. (3-23-98)

01. Emission Limitations And Standards. All Tier I operating permits shall contain emission limitations and standards, including, but not limited to, those operational requirements and limitations that assure compliance with the applicable requirements identified in the application, or determined by the Department to be applicable to the source. (3-19-99)

02. Authority For And Form Of Terms And Conditions. All Tier I operating permits shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. (5-1-94)

03. Terms Or Conditions For Applicable Requirements. All Tier I operating permits shall contain at least one (1) permit term or condition for every applicable requirement specifically identified in the application or determined by the Department to be applicable to the source. (3-23-98)

04. Alternative Operating Scenarios. All Tier I operating permits shall contain terms and conditions to ensure compliance with all applicable requirements for each alternative operating scenario that was requested by the applicant and approved by the Department, including, but not limited to, a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) operating scenario to another, record the change in an operating scenario log located and retained at the permitted facility. (5-1-94)

05. Trading Scenarios. (5-1-94)

a. All Tier I operating permits shall contain terms and conditions for each trading scenario that was requested by the applicant and approved by the Department including, but not limited to, terms and conditions which ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures. (3-23-98)

b. The Tier I operating permit shall state that no permit revision shall be required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit. (4-5-00)

c. The Tier I operating permit shall, at a minimum, include a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) trading scenario to another, record the change in a trading scenario log located and retained at the permitted facility and provide notice to the Department in accordance with Section 383. (3-23-98)

06. Monitoring. All Tier I operating permits shall contain the following with respect to monitoring:

(5-1-94)

a. Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit; (5-1-94)

b. All emissions monitoring and analysis procedures or test methods required under the applicable requirements; (5-1-94)

c. If the applicable requirement does not require specific periodic testing or monitoring, terms and conditions requiring periodic monitoring, recordkeeping, or both, that is sufficient to yield reliable data for the relevant time periods that are representative of the emissions unit's compliance with the Tier I operating permit, as reported pursuant to Subsection 322.08, and ensuring the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and (5-1-94)

d. Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods. (5-1-94)

07. Recordkeeping. All Tier I operating permits shall incorporate by reference all applicable requirements regarding recordkeeping and require all of the following: (5-1-94)

a. Sufficient recordkeeping to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

b. Recording of monitoring information including but not limited to the following: (5-1-94)

i. The date, place (as defined in the Tier I operating permit) and time of sampling or measurements; (5-1-94)

ii. The date(s) analyses were performed; (5-1-94)

iii. The company or entity that performed the analyses; (5-1-94)

iv. The analytical techniques or methods used; (5-1-94)

v. The results of such analyses; and (5-1-94)

vi. The operating conditions existing at the time of sampling or measurement. (5-1-94)

c. Retention of all monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes but is not limited to all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the Tier I operating permit. (5-1-94)

08. Reporting. All Tier I operating permits shall incorporate by reference all applicable requirements regarding reporting and require all of the following: (5-1-94)

a. Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

b. Prompt reporting of deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

c. Submittal of reports for any required monitoring at least every six (6) months. All instances of deviations from Tier I operating permit requirements, which include monitoring, recordkeeping, and reporting, must

be clearly identified in such reports. All required reports must be certified in accordance with Section 123. (4-5-00)

09. Testing. All Tier I operating permits shall contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

10. Compliance Schedule and Progress Reports. All Tier I operating permits shall contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including all of the following: (4-5-00)

a. For each applicable requirement for which the source is not in compliance at the time of the permit issuance, terms and conditions consistent with the compliance schedule submitted by the applicant including all of the following: (4-5-00)

i. A schedule of remedial measures leading to compliance including an enforceable sequence of actions and specific dates for achieving the milestones and achieving compliance. (4-5-00)

ii. A requirement that the permittee submit periodic progress reports to the Department no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department. (5-1-94)

iii. A requirement that any progress report shall include a statement of when the milestones and compliance were or will be achieved, an explanation of why any dates in the compliance schedule submitted by the applicant or in the terms or conditions of the Tier I operating permit were not or will not be met and a detailed description of any preventative or corrective measures undertaken by the permittee. (5-1-94)

iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

v. A statement that the terms and conditions regarding the compliance schedule are supplemental to, and do not sanction noncompliance with, the underlying applicable requirement. (5-1-94)

b. For each applicable requirement that will become effective during the term of the Tier I operating permit and that requires a detailed compliance schedule, the permit shall include such compliance schedule. (4-5-00)

c. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not require a detailed compliance schedule, the permit shall include a statement that the permittee shall meet, on a timely basis, all such applicable requirements. (4-5-00)

11. Periodic Compliance Certifications. Each Tier I operating permit shall require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: (5-1-94)

a. Compliance certifications for all emissions units shall be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

b. The compliance certification for each emissions unit shall address all of the terms and conditions contained in the Tier I operating permit that are applicable to such emissions unit including emissions limitations, standards and work practices. (5-1-94)

c. The compliance certification shall be in an itemized format providing the following information: (5-1-94)

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; (4-5-00)

ii. The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, ~~and whether such methods or~~

~~other means provide continuous or intermittent data.~~ Such methods and other means shall include, at a minimum, the methods and means required by the Tier I operating permit. ~~If necessary, the owner or operator shall identify any other material information that must be included in the certification to comply with Section 113(e)(2) of the Clean Air Act which prohibits knowingly making a false certification or omitting material information under Subsections 322.06, 322.07, and 322.08;~~ (4-5-00)(____)

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in Subsection 322.11.c.ii. above. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and (4-5-00)(____)

iv. Such information as the Department may require to determine the compliance status of the emissions unit. (4-5-00)

d. All original compliance certifications shall be submitted to the Department and a copy of all compliance certifications shall be submitted to the EPA; (5-1-94)

12. Permit Conditions Regarding Acid Rain Allowances. (5-1-94)

a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. (5-1-94)

b. No limit shall be placed on the number of allowances held by the source and no permit revisions shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. (3-23-98)

c. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. (5-1-94)

d. Any such allowance shall be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73. (5-1-94)

13. Permit Duration. Each Tier I operating permit shall state that it is effective for a fixed term of five (5) years; except that during the first four (4) years after EPA approval of the Tier I operating permit program, the permit may be issued with an initial term of three (3) years to five (5) years unless the Tier I source is also a Phase II source. (5-1-94)

14. Other Specific Requirements. Any terms or conditions determined by the Department to be necessary for approval of the Tier I operating permit. (5-1-94)

15. General Requirements. Each Tier I operating permit shall contain provisions stating the following: (5-1-94)

a. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit revocation, termination, revocation and reissuance, or revision; or for denial of a permit renewal application. (5-1-94)

b. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce any activity in order to maintain compliance with the terms and conditions of this permit. (5-1-94)

c. This permit may be revised, revoked, reopened and reissued, or terminated for cause. (5-1-94)

d. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

- (5-1-94)
- e. This permit does not convey any property rights of any sort, or any exclusive privilege. (5-1-94)
 - f. The permittee shall furnish all information requested by the Department, within a reasonable time, that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing or terminating the permit or to determine compliance with the permit. (4-5-00)
 - g. Upon request, the permittee shall furnish to the Department copies of records required to be kept by this permit. (5-1-94)
 - h. The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby. (5-1-94)
 - i. The permittee shall comply with Sections 380 through 386 as applicable. (3-19-99)
 - j. Unless specifically identified as a "State Only" provision, all terms and conditions in the this permit, including any terms and conditions designed to limit a source's potential to emit, are enforceable: (5-1-94)
 - i. By the Department in accordance with State law; and (5-1-94)
 - ii. By the United States or any other person in accordance with Federal law. (5-1-94)
 - k. Provisions specifically identified as a "State Only" provision are enforceable only in accordance with State law. "State Only" provisions are those that are not required under the Federal Clean Air Act or under any of its applicable requirements or those provisions adopted by the State prior to federal approval. (3-23-98)
 - l. Upon presentation of credentials, the permittee shall allow the Department or an authorized representative of the Department to do the following: (5-1-94)
 - i. Enter upon the permittee's premises where a Tier I source is located or emissions-related activity is conducted, or where records are kept under the conditions of this permit; (5-1-94)
 - ii. Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit; (5-1-94)
 - iii. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and (5-1-94)
 - iv. Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements. (5-1-94)
 - m. Nothing in this permit shall alter or affect the following: (5-1-94)
 - i. Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; (5-1-94)
 - ii. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; (5-1-94)
 - iii. The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); (5-1-94)
 - iv. The owner or operator's duty to provide information. (5-1-94)
 - n. The owner or operator of a Tier I source shall pay registration fees to the Department in accordance

with Sections 387 through 399, which are hereby incorporated by reference. (7-1-02)

o. All documents submitted to the Department shall be certified in accordance with Section 123 and comply with Section 124. (5-1-94)

p. If a timely and complete application for a Tier I operating permit renewal is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit including any permit shield that may have been granted pursuant to Section 325 shall remain in effect until the renewal permit has been issued or denied. (5-1-94)

q. The permittee shall promptly report deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0301

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule were effective November 14, 2003. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final immediately upon the adjournment sine die of the Second Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to meet the requirements of 40 CFR 131.10(b) by setting water quality standards that protect designated uses in, and ensuring attainment and maintenance of the water quality standards of, downstream waters in Oregon and to meet the schedule for development of TMDLs. This rulemaking sets a standard that reflects the target for dissolved oxygen in the Snake River/Hell's Canyon TMDL. This target was the result of evaluation and agreement between Oregon and Idaho with input from a public advisory team. The rulemaking is also necessary to support the target in the TMDL. New Section 285 has been added to the water quality standards to provide for a site-specific standard for water-column dissolved oxygen in the Snake River along the Idaho/Oregon border. In addition, the description of water body unit SW-1 in Subsection 140.13 has been changed to correct an oversight as to the actual boundaries.

In June 2003 the Board adopted the rule as a temporary rule. In August 2003, the Department of Environmental Quality (DEQ) published the temporary/proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, August 6, 2003, Volume 03-8, pages 130 through 132. DEQ received public comments concerning the proposed rule and has revised the initial proposal at Section 285. Section 140 has been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE, STATEMENT: Section 39-107D, Idaho Code, provides that certain rulemaking requirements must be met if DEQ formulates and recommends to the Board a rule that is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government. Section 39-107D, Idaho Code, does not apply to the proposed site-specific criteria for dissolved oxygen because the adoption of the criteria are necessary to meet, but not exceed, federal law or regulations.

The Clean Water Act requires states to adopt water quality standards that must be submitted to and approved by the U.S. Environmental Protection Agency (EPA). EPA's Clean Water Act regulations at 40 CFR 131.10(b) provide that a state, in designating uses and criteria for those uses, shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.

The state of Idaho and Oregon share, as a boundary, the Snake River. The state of Oregon water quality standards that apply to the Snake River differ from the applicable Idaho water quality standards for dissolved oxygen. As noted above, federal regulations require that Idaho's water quality standards ensure the attainment and maintenance of water quality standards of downstream waters, such as the Snake River in Oregon. In order to meet this federal requirement, the Board has adopted, as site-specific criteria, standards for dissolved oxygen that reflect Oregon's water quality standards. This rulemaking is also necessary to support the target for dissolved oxygen set forth in the Snake River/Hell's Canyon TMDL, which was developed as a requirement of federal law. Because this rule meets, but does not exceed, the requirements of federal law, the provisions of Section 39-107D, Idaho Code, do not apply.

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

www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208)373-0502, dessig@deq.state.id.us.

Dated this 14th day of November, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
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IDAPA 58, TITLE 01, CHAPTER 02

WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

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 130 through 132.](#)

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. 58-0102-0301

SECTION 285 (Entire Section)

285. SNAKE RIVER, ~~SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3;~~ SUBSECTION 140.13, HUC 17050115, UNIT SW1; AND SUBSECTION 140.19, HUC 17050201, UNITS SW1, SW2, SW3 AND SW4, SITE-SPECIFIC CRITERIA FOR WATER-COLUMN DISSOLVED OXYGEN.

The following criteria are to be met in the Snake River at the locations and time periods set forth below. (6-20-03)T

01. ~~Hell's Canyon Dam To Salmon River.~~ *A minimum of eight (8) mg/l, or where conditions of barometric pressure, altitude, and temperature preclude attainment of eight (8) mg/l, dissolved oxygen levels shall not be less than ninety percent (90%) of saturation. At the discretion of the Department, when the Department determines that adequate information exists, dissolved oxygen shall not fall below a minimum of eight (8) mg/l as a thirty (30) day mean, a minimum of six and five tenths (6.5) mg/l as a seven (7) day mean of daily minimums, and six*

~~(6.0) mg/l as an absolute minimum.~~

~~(6-20-03)F~~

~~02. **Hell's Canyon Dam To Salmon River During October 23 Through April 15, Where Salmonid Spawning Occurs.** A minimum of eleven (11) mg/l or nine (9) mg/l when the minimum intergravel dissolved oxygen, measured as a spatial median, is eight (8) mg/l or greater; provided, however, where conditions of barometric pressure, altitude, and temperature preclude attainment of eleven (11) mg/l or nine (9) mg/l, dissolved oxygen levels shall not be less than ninety five percent (95%) of saturation.~~

~~(6-20-03)F~~

~~03. **Idaho/Oregon Border To Hell's Canyon Dam.** A minimum of six and five-tenths (6.5) mg/l of water-column dissolved oxygen shall be met in the Snake River from the Idaho/Oregon border to Hell's Canyon Dam.~~

~~(6-20-03)F(11-14-03)T~~

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule was effective November 14, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before January 23, 2004. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to update the Idaho Water Quality Standards to be consistent with the Snake River Hell's Canyon TMDL temperature and regional temperature criteria guidance. This temporary/proposed rule revises the salmonid spawning and incubation temperature criteria to 13°C as a maximum weekly maximum temperature.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

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

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit and is necessary to comply with federal deadlines.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the temporary rulemaking schedule did not allow for the timing of it.

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

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

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before February 6, 2004.

DATED this 14th day of November, 2003.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-0401

286. SNAKE RIVER, SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3; SITE-SPECIFIC CRITERIA FOR WATER TEMPERATURE.

A maximum weekly maximum temperature of thirteen degrees C (13C) to protect fall chinook spawning and incubation applies from October 23rd through April 15th in the Snake River from Hell's Canyon Dam to the Salmon River. (11-14-03)T

~~2867.~~ -- 299. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require the Board to adopt amendments to federal law as set out in this pending rule.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2003, Volume 03-8, pages 133 through 139. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0502 or jbrueck@deq.state.id.us.

Dated this 14th day of November, 2003.

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IDAPA 58, TITLE 01, CHAPTER 05

RULES AND STANDARDS FOR HAZARDOUS WASTE

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 133 through 139.](#)

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0301

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) 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 the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2003, Volume 03-8, pages 140 through 158. The agency received no public comments on the proposed rule; however, the Board revised the rule at Subsection 555.01 by removing "Effective April 15, 2002". The rulemaking record can be obtained by contacting the undersigned.

FEE SUMMARY: Pursuant to federal law, the state took over certification of drinking water operators in 2002. Previously, application and examination were voluntary. The rule which transferred certification authority to the state did not include fee provisions for application and testing. The program currently operates partially on fees collected for the testing and renewals and is subsidized by general fund and other program moneys. If the state is unable to collect fees for testing, the public health is placed at risk because the Department of Environmental Quality (DEQ) will not be able to certify current and new operators and verify that they are qualified to perform their duties. Imposition of the fee is authorized by Section 39-119, Idaho Code.

SECTION 39-107D, IDAHO CODE, STATEMENT: This rule regulates an activity not regulated by the federal government. The federal government does not regulate certification of drinking water system operators.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Chris Lavelle at (208)373-0502, clavelle@deq.state.id.us.

DATED this 14th day of November, 2003.

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IDAPA 58, TITLE 01, CHAPTER 08

IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

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 140 through 158.](#)

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.

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

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0108-0301

SUBSECTION 555.01 (Partial Section)

555. GRANDPARENTING.

01. Grandparenting Certificate. ~~A grandparenting certificate may only be issued to an existing operator in responsible charge of an existing public drinking water system. The grandparenting certificate will be site specific and non-transferable and can only be issued to an operator of a system that has demonstrated their competency to the director and which, because of state law changes to meet these guidelines, must have a certified operator for the first time. The Department shall not accept applications for grandparent certification. Operators holding an existing grandparent certificate must comply with all applicable provisions of these rules in order to maintain their certification. If an operator's grandparent certification lapses, is revoked, or is otherwise not renewed, the operator will be required to meet the current standards for certification set out in these rules.~~ (4-5-00)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code. In addition, states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.12(b) through (d) to adopt within two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 141.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 2, 2003, Volume 03-7, pages 83 through 85. The agency received no public comments on the proposed rule, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

Pursuant to Section 67-5228, Idaho Code, this rulemaking also includes a correction to transcription errors found in Sections 300, 550, 551, and 552. References to Subsection 002.01 have been changed to 002.02.

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

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

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

DATED this 14th day of November, 2003.

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IDAPA 58, TITLE 01, CHAPTER 08

IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

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 83 through 85](#).

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

58.01.10 - RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

DOCKET NO. 58-0110-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Section 39-4405, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking has been undertaken to avoid the potential for radioactive material to be introduced into the environment by indiscriminate disposal. The rule requires that authorities be contacted prior to disposal. In August 2003 the Board adopted the rule as a temporary rule. In October 2003, the Department of Environmental Quality (DEQ) published the temporary/proposed rule, inviting the public to comment on the rule. The rule has been adopted as initially proposed in the Idaho Administrative Bulletin, October 1, 2003, Volume 03-10, pages 586 through 587. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for adopting the rule is included in the rulemaking record, which can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE, STATEMENT: The rule regulates an activity not regulated by federal law. Federal law, via the Atomic Energy Act of 1954, as Amended (the AEA) regulates the disposal of a large portion of, but not all, radioactive materials. Individual states are left to regulate the disposal of non-AEA radioactive materials. Idaho fulfills this regulatory need with its Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, as Amended, IDAPA 58.01.10. (Idaho's Radioactive Materials Rules). This rule modifies Idaho's Radioactive Materials Rules by adding a notification requirement that applies to all persons with knowledge of radioactive materials being transferred for disposal to a prohibited location, an area not regulated by federal law.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0502 or jbrueck@deq.state.id.us.

Dated this 14th day of November, 2003.

Paula J. Gradwohl - Environmental Quality Section
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IDAPA 58, TITLE 01, CHAPTER 10

RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

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 03-10, October 1, 2003, pages 586 and 587.

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.

Subjects Affected Index

IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY

01.01.01 - Idaho Accountancy Rules

Docket No. 01-0101-0401

004. Incorporation By Reference. (Rule 004)..... 17

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - Rules Governing Uniformity

Docket No. 08-0202-0302

024. Endorsements M - Z. 25

Docket No. 08-0202-0303

077. Definitions For Use With The Code Of Ethics For Idaho Professional Educators
(Sections 33-1208 And 33-1209, Idaho Code). 27

08.02.02 - Rules Governing Uniformity

Docket No. 08-0202-0304

044. Alternative Authorization -- Content Specialist (Effective July 1, 2006). 30
045. (Reserved). 31
046. Para-Educator To Teacher (Effective July 1, 2006). 31

08.02.03 - Rules Governing Thoroughness

Docket No. 08-0203-0301

105. Graduation From High School..... 33
107. High School Graduation Standards (Effective July 1, 2000)..... 34
111. Assessment In The Public Schools. 35
112. Accountability..... 36

IDAPA 15 - OFFICE OF THE GOVERNOR

DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

15.04.01 - Rules Of The Division Of Human Resources And Personnel Commission

Docket No. 15-0401-0301

001. Title, Scope, And Compliance..... 44
010. Definitions. 44
020. Veterans Preference. 46
025. Nepotism. 46
050. Consultants And Persons Employed Under Independent Contract. 46
066. Abolishment Of Positions..... 47
070. Compensation Of Employees. 47
071. Compensation Plan Reviews. 48
072. Operation Of Compensation Plan. 48
073. Calculation Of Pay..... 48
075. Shift Differential. 49
085. Content Of Announcements..... 49
086. Applications. 49
093. Conduct And Rating Of Examinations Including Veterans' Preference Points..... 49
101. Types Of Eligibility Registers. 50
102. Placement On Register..... 50
103. Duration Of Eligibility Registers..... 50
109. Certification And Selection. 50
111. Adequate Registers. 50
121. Seasonal Appointment..... 51

124. Reinstatements..... 51
125. Transfers..... 51
140. Reduction In Force..... 51
141. Calculation Of Retention Points..... 52
142. Credited State Service..... 53
143. Reduction In Force Determination And Notification..... 54
144. Placement On Register With Reemployment Preference..... 54
145. Use Of Registers With Reemployment Preference..... 54
146. Interviews For Prospective Layoffs..... 55
147. Voluntary Demotion In Lieu Of Layoff..... 55
148. -- 149. (Reserved)..... 56
152. Separation During Probation..... 56
153. Unsatisfactory Performance During A Promotion Probation Period..... 56
181. Nondisciplinary Demotion Optional..... 57
183. -- 189. (Reserved)..... 57
203. Referrals From Federal Agencies On Discrimination Complaints..... 57
210. Performance Evaluations..... 57
240. Sick Leave..... 57
241. Workers Compensation And Disability..... 58
243. Maternity And Paternity Leave..... 58
244. Separation Upon Failure To Return To Work..... 58
250. Special Leaves..... 59
273. Minimum Human Resource Policies..... 59

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - Rules Governing Emergency Medical Services

Docket No. 16-0203-0401

000. Legal Authority..... 61
004. Incorporation By Reference..... 61
005. Office -- Office Hours -- Mailing Address -- Street Address --
Telephone Number -- Internet Website..... 61
006. Confidentiality Of Records And Public Records Act Compliance And Requests..... 61
007. -- 009. (Reserved)..... 62
010. Definitions And Abbreviations..... 62
011. -- 099. (Reserved)..... 63
100. Statewide Ems Advisory Committee..... 63
201. Standards..... 65
206. Consistency With National Standards..... 66
226. Qualifications Of EMT-Basic Course Instructors..... 66
227. Primary Or Lead EMT-Basic Instructors..... 66
230. EMT-Intermediate Instructors..... 67
231. -- 299. (Reserved)..... 67
300. Ambulance Service Standards..... 67
301. Non-Transport Service Standards..... 69
302. -- 319. (Reserved)..... 71
320. Designation Of Clinical Capability..... 71
321. -- 323. (Reserved)..... 71
324. Standards For Agencies Utilizing EMT-Intermediate Personnel..... 71
325. Pre-Hospital Advanced Life Support (ALS) Standards..... 72
326. -- 329. (Reserved)..... 73
330. Advanced Life Support (ALS) Transfer Standards..... 73
331. -- 334. (Reserved)..... 74

335. Critical Care Transfer Service Standards.....	74
336. -- 339. (Reserved)	74
340. Advanced Life Support (ALS) Designation Categories.	75
500. Certification.	75
501. Initial Certification.....	75
502. -- 509. (Reserved)	76
510. Certification Duration And Recertification.	76
511. Lapsed Certification.....	76
604. -- 999. (Reserved)	77
16.02.10 - Idaho Reportable Diseases	
Docket No. 16-0210-0401	
010. Reportable Diseases And Conditions.	79
020. Specific Control Measures For Reportable Diseases.....	87
021. -- 024. (Reserved)	105
025. Control Of Reportable And Restrictable Diseases In Certain Facilities.....	105
16.02.19 - Food Safety And Sanitation Standards For Food Establishments	
Docket No. 16-0219-0302 - (Chapter Rewrite)	
201. Assignment Of Person In Charge.	113
202. -- 209. (Reserved)	113
16.03.04 - Rules Governing The Food Stamp Program In Idaho	
Docket No. 16-0304-0301	
204. Citizenship And Qualified Non-Citizen Requirements.	116
616. Decreases Or Closure Of Food Stamps.	118
16.03.05 - Rules Governing Aid To The Aged, Blind And Disabled (AABD)	
Docket No. 16-0305-0302	
200. Resources Defined.	120
273. -- 276. (Reserved)	120
277. Excluded Real Estate Contract.	120
436. Real Estate Contract Income.....	120
788. Aged And Disabled (A&D) Waiver.	120
841. Penalty Exceptions For Asset Transfers.	121
16.03.09 - Rules Governing The Medical Assistance Program	
Docket No. 16-0309-0307	
118. Targeted Developmental Disabilities Service Coordination.	124
120. Rehabilitative Services -- Developmental Disabilities Agencies.	125
143. Waiver Services For Adults With Developmental Disabilities And ISSH Waiver Participants.	126
Docket No. 16-0309-0310	
560. School-Based Health-Related Services Provided By Idaho Public School Districts And The Idaho Infant Toddler Program Under The Individuals With Disabilities Education Act (IDEA).....	128
561. Medicaid Eligibility.....	128
562. Service-Specific Eligibility.....	129
563. Evaluation And Diagnostic Services.	129
564. Reimbursable Services.....	129
569. Provider Staff Qualifications.	129
575. Payment For Services.	130
577. Requirements For Cooperation With And Notification Of Parents And Agencies.....	130

16.03.10 - Rules Governing Medicaid Provider Reimbursement In Idaho

Docket No. 16-0310-0303	
123. Occupancy Adjustment Factor.....	132
351. Audit Principle.....	132
454. Adjustment For Disproportionate Share Hospitals (DSH).	132

16.03.13 - Prior Authorization For Behavioral Health Services

Docket No. 16-0313-0301	
001. Title, Policy And Scope.....	134
003. Reconsiderations, Complaints, And Administrative Appeals.	134
010. Definitions (A Through L).....	135
011. Definitions (M Through Z).	136
100. Determination Of Program Eligibility For Adults With A Developmental Disability.....	137
300. Plan Of Service.....	137
330. Informed Consent.	138
340. Provider Implementation Plan.	138
400. Community Crisis Supports.....	138

16.03.17 - Service Coordination

Docket No. 16-0317-0301 - (New Chapter)	
202. Eligibility - Individuals Who Receive Personal Assistance Services.....	141
300. Assessment.....	141
800. Limitations On Service Coordination.	141

16.03.23 - Rules Governing Uniform Assessments For State-Funded Clients

Docket No. 16-0323-0301	
004. Definitions.	144

16.04.11 - Rules Governing Developmental Disabilities Agencies (DDA)

Docket No. 16-0411-0301	
002. Written Interpretations.....	146
011. Definitions -- P Through Z.	146
200. The Role Of Developmental Disabilities Agencies (DDAs).....	148
301. Application For Licensure.	149
305. Issuance Of A Provisional License, Denial Or Revocation Of License.	149
761. Applicant Screening.....	149
800. Standards For Developmental Disabilities Agencies (DDA) Providing Services To Participants Age Eighteen Or Older And ISSH Waiver Participants.....	149
801. Standards For DDAs Providing Services To Participants Under Age Eighteen Who Do Not Use ISSH Waiver Services.	151
804. Required Services.....	152
809. Qualifications To Provide Intensive Behavioral Intervention (IBI).	152
900. Additional Standards For Personnel Providing Developmental Disability Services.....	153
920. Building Standards.....	153
921. Health.....	154
924. State Plan.	154

16.04.17 - Rules Governing Residential Habilitation Agencies

Docket No. 16-0417-0301	
000. Legal Authority.....	156
011. Definitions -- M Through Z.	156
202. Administrator.	157
301. Personnel.....	157
302. Service Provision Procedures.	157

16.06.01 - Rules Governing Family And Children's Services

Docket No. 16-0601-0401

483. Payment To Family Foster Care Providers..... 161

IDAPA 19 - BOARD OF DENTISTRY**19.01.01 - Rules Of The Idaho State Board Of Dentistry**

Docket No. 19-0101-0301

040. Unprofessional Conduct (Rule 40)..... 163

IDAPA 22 - BOARD OF MEDICINE**22.01.03 - Rules Of The Licensure Of Physician Assistants**

Docket No. 22-0103-0301

000. Legal Authority..... 166

010. Definitions. 166

028. Scope Of Practice..... 166

030. Practice Standards. 167

036. Graduate Physician Assistant. 167

037. Disciplinary Proceedings And Notification Of Change. 168

22.01.04 - Rules Of The Board Of Medicine For Registration Of Supervising Physicians

Docket No. 22-0104-0301

010. Definitions. 171

019. Duties Of Directing Physicians. 171

020. Duties Of Supervising Physicians..... 172

040. Fees. 172

22.01.10 - Rules For The Registration Of Athletic Trainers To Practice In Idaho

Docket No. 22-0110-0301

012. Scope Of Practice..... 175

013. Athletic Training Service Plan Or Protocol. 175

014. Duties And Responsibilities Of Directing Physicians. 175

015. Registration Of Directing Physicians Licensed To Practice Medicine
And Surgery By The Board Of Medicine 176

017. -- 019. (Reserved). 176

030. Application For Licensure. 176

040. Licensure (Expiration And Renewal). 177

052. Denial Or Refusal To Renew Licensure Or Suspension Or Revocation Of Licensure. 178

061. Fees. 178

22.01.11 - Rules For Licensure Of Respiratory Therapists In Idaho

Docket No. 22-0111-0301

010. Definitions. 182

011. Board Of Medicine And Licensure Board. 182

032. Application For Licensure And Permits. 182

035. Denial Or Refusal To Renew License Or Permit Or Suspension
Or Revocation Of License Or Permit. 183**IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD****25.01.01 - Rules Of The Outfitters And Guides Licensing Board**

Docket No. 25-0101-0302

015. Annual Date, Multiple Years, Fees, And Payment..... 185

IDAPA 35 - STATE TAX COMMISSION**35.01.03 - Property Tax Administrative Rules**

Docket No. 35-0103-0303

988. Election Of Qualified Property For Exemption (Rule 988)..... 195

35.02.01 - Tax Commission Administration And Enforcement Rules

Docket No. 35-0201-0302

450. Property Tax Exemption Penalty (Rule 450)..... 198

IDAPA 57 - SEXUAL OFFENDER CLASSIFICATION BOARD**57.01.01 - Rules Governing The Sexual Offender Classification Board**

Docket No. 57-0101-0401 - (Fee Rule)

000. Legal Authority.....	202
001. Title And Scope.....	202
002. Written Interpretations.....	202
003. Administrative Appeals.....	202
004. Incorporation By Reference.....	202
005. Office -- Office Hours -- Mailing Address And Street Address.....	203
006. Public Records Act Compliance.....	203
007. -- 009. (Reserved).....	203
010. Definitions.....	203
011. Abbreviations.....	204
012. -- 019. (Reserved).....	204
020. Record Keeping.....	204
021. Board Meetings.....	204
022. -- 030. (Reserved).....	205
031. Offenders Subject To Evaluation.....	205
032. -- 039. (Reserved).....	205
040. Certified Evaluator Qualifications.....	205
041. Standards For Professional Conduct And Client Relations.....	206
042. Reciprocity.....	206
043. -- 049. (Reserved).....	206
050. Certified Evaluator Application.....	206
051. Request For Conditional Waiver.....	207
052. -- 059. (Reserved).....	208
060. Central Roster Of Certified Evaluators.....	208
061. Exclusion.....	208
062. -- 069. (Reserved).....	208
070. Denial And Revocation Of Certification.....	208
071. -- 079. (Reserved).....	209
080. Notice Of Intent.....	209
081. Appeal.....	209
082. Hearing Officer.....	209
083. Hearing.....	210
084. -- 089. (Reserved).....	210
090. Complaints.....	210
091. Notice Of Complaint.....	210
092. -- 099. (Reserved).....	211
100. Quality Assurance And Technical Review.....	211
101. -- 109. (Reserved).....	211
110. Psychosexual Evaluation.....	211
111. -- 119. (Reserved).....	211
120. Evaluation For Violent Sexual Predator Review.....	211

121. Failure To Cooperate. 211
122. Intention To Re-Offend. 211
123. Scope Of Evaluation. 211
124. -- 129. (Reserved). 211
130. Board Review. 211
131. Demonstration Of High Risk. 212
132. Board Vote. 212
133. Findings. 212
134. Notice Of Designation As A Violent Sexual Predator. 212
135. -- 139. (Reserved). 213
140. Judicial Review. 213
141. -- 149. (Reserved). 213
150. Victims. 213
151. Locating Victims. 213
152. Victim Participation. 213
153. -- 999. (Reserved). 213

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - Rules For The Control Of Air Pollution In Idaho

Docket No. 58-0101-0302

322. Standard Contents Of Tier I Operating Permits. 216

58.01.02 - Water Quality Standards And Wastewater Treatment Requirements

Docket No. 58-0102-0301

285. Snake River, Subsection 140.13, HUC 17050115, Unit SW1;
And Subsection 140.19, HUC 17050201, Units SW1, SW2, SW3 AND SW4,
Site-Specific Criteria For Water-Column Dissolved Oxygen. 223

58.01.02 - Water Quality Standards And Wastewater Treatment Requirements

Docket No. 58-0102-0401

286. Snake River, Subsection 130.01, HUC 17060101, Unit S1, S2, And S3;
Site-Specific Criteria For Water Temperature. 226
287. -- 299. (Reserved). 226

58.01.08 - Idaho Rules For Public Drinking Water Systems

Docket No. 58-0108-0301

555. Grandparenting. 229

LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

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

01-0101-0401, Idaho Accountancy Rules. Incorporates by reference the 2004 AICPA Professional Standards and standards issued by the Public Company Accountability Oversight Board (PCAOB). Comment by: 1/28/04.

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

16-0203-0401, Rules Governing Emergency Medical Services. Implements legislation that created a new designated Emergency Medical Technician-Intermediate (EMT-I) described in Section 56-1012, Idaho Code; sets training and qualification standards for EMT-I position. Comment by: 1/28/04.

16-0210-0401, Idaho Reportable Diseases. Adds and defines West Nile Virus and Severe Acute Respiratory Syndrome (SARS) as reportable diseases in Idaho. Comment by: 1/28/04.

16-0601-0401, Rules Governing Family and Children's Services. Section 483 is being amended to reflect an increase in foster care payment rates that began July 1, 2003, as provided for by the 2003 Legislature. Comment by: 1/28/04.

IDAPA 57 - SEXUAL OFFENDER CLASSIFICATION BOARD 1299 N. Orchard St., Suite 110, Boise, ID 83706

57-0101-0401, Rules Governing the Sexual Offender Classification Board. New chapter establishes an application system to certify sexual offender evaluators; provides quality assurance for evaluators and evaluations; and sets procedures for designating high-risk sexual offenders as Violent Sexual Predators. Comment by: 1/28/04.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY 1410 N. Hilton, Boise, ID 83706-1255

58-0101-0302, Rules for the Control of Air Pollution in Idaho. Adopts and incorporates federal regulations that change the 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. Comment by: 1/28/04.

58-0102-0401, Water Quality Standards and Wastewater Treatment Requirements. Updates the Idaho Water Quality Standards to be consistent with the Snake River Hell's Canyon TMDL temperature and regional temperature criteria guidance; revises the salmonid spawning and incubation temperature criteria to 13°C as a maximum weekly maximum temperature. Comment by: 2/6/04.

Please refer to the Idaho Administrative Bulletin, **January 7, 2004, Volume 04-1** 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.**

Subject Index

A

AEMT-A Certification, Duration & Recertification 76
ALS Designation Categories 75
Abbreviations, The Sexual Offender Classification Board 204
Abolishment Of Positions, Human Resources, Personnel Commission 47
Accountability 36
Acquired Immune Deficiency Syndrome (AIDS), Control Reportable Diseases 87
Additional Standards For Personnel Providing Developmental Disability Services 153
Adequate Registers, Five Candidates 50
Adequate Yearly Progress (AYP) 37
Adequate Yearly Progress (AYP) Definitions 37
Adjustment For Disproportionate Share Hospitals (DSH) 132
Administrative License Action, Advanced Life Support Transfer Standards 73
Administrative License Action, Critical Care Transfer Service Standards 74
Administrative License Action, Pre-hospital Advanced Life Support Standards 73
Administrative Staffing, Personnel Providing Developmental Disability Services 153
Administrator, Residential Habilitation Agencies 157
Admission Procedures, Residential Habilitation Agencies 157
Adult Instructional Methodology 67
Adult Instructional Methodology, EMT-Basic Course Instructors 66
Advanced Emergency Medical Technician-Ambulance (AEMT-A) 62
Advanced Life Support (ALS) 62
Advanced Life Support Transfer Standards 73
Affiliation Required, Licensed EMS Service 75, 76
Affirmation Of Factoring 48
Aged & Disabled (A&D) Waiver 120
Agency, EMS Service Seeking Designation 62
Alternate Directing Physician 171
Alternate Supervising Physician 171
Alternative Operating Scenarios, Tier I Operating Permits 216

Alternative Route Preparation Program 31
Ambulance 62
Ambulance Service Standards, Emergency Medical Services 67
Ambulance-Based Clinicians 62
Amebiasis, Control Measures, Reportable Diseases 88
American Dental Association Compliance 163
Annual Date, Multiple Years, Fees, & Payment, Outfitters & Guides 185
Annual Renewal, Athletic Trainers Registration 177
Anthrax, Control Measures, Reportable Diseases 88
Appeal, Notice, To Deny, Suspend, Revoke Certification 209
Applicant Screening, DDA's 149
Application For Initial Certification 206
Application For Licensure & Permits, Respiratory Therapist 182
Application For Licensure, Athletic Trainers 176
Application For Licensure, Developmental Disabilities Agencies 149
Application For Polysomnography Related Respiratory Care Practitioner 182
Application For Provisional Licensure, Athletic Trainers 176
Application, Respiratory Therapist License 182
Applications, Examination 49
Appointment, Original Or Initial 44
Appointment, Temporary 45
Assessment Content For Developmental Disability 141
Assessment For Adverse Impact 52
Assessment In The Public Schools 35
Assessment, Service Coordination 141
Assignment Of Person In Charge 113
Association For The Treatment Of Sexual Abusers Professional Code Of Ethics, 2001 Edition 202
Athletic Training Service Plan Or Protocol 175
Authority For & Form Of Terms & Conditions, Tier I Operating Permits 216

B

Board Meetings, The Sexual Offender Classification Board 204
Board Of Medicine & Licensure Board 182

Board Review, Violent Sexual Predator Review 211
Board Vote, Evaluation For Violent Sexual Predator Review 212
Botulism, Control Measures, Reportable Diseases 88
Brucellosis, Control Measures, Reportable Diseases 88
Budget 135
Building Standards, DDA's 153

C

Calculation Of Pay 48
Calculation Of Retention Points Since Last Evaluation 53
Calculation Of Retention Points, RIF 52, 54
Campylobacteriosis, Control Measures, Reportable Diseases 89
Cancer, Control Measures, Reportable Diseases 89
Capacity, No More Than Forty Persons, DDA's 153
Central Roster Of Certified Evaluators 203, 208
Certification Duration & Recertification, EMS Bureau 76
Certification Period, Posting Requirement, And Notification Of Changes, Evaluator Qualifications 207
Certification, EMS Bureau 62
Certification, First Responder, EMT-B, EMT-P, AEMT-A 75
Certified Evaluator 203
Certified Evaluator Application 206
Certified Evaluator Qualifications 205
Certified Personnel 62
Chancroid, Control Measures, Reportable Diseases 89
Chlamydia Trachomatis Infections, Control Measures, Reportable Diseases 90
Cholera, Control Measures, Reportable Diseases 90
Citizenship & Qualified Non-Citizen Requirements 116
Clinical Review 135
Committee Membership, EMS Advisory Committee 64
Communications, Ambulance Service Standards 68
Communications, Non-Transport Standards, Ambulance Services 70
Community Crisis Support 135
Community Crisis Supports 138
Compensation Of Employees 47
Compensation Plan 48

- Compensation Plan Reviews 48
Complaints, Against Certified Evaluator 210
Compliance Schedule & Progress Reports, Tier I Operating Permits 218
Concurrent Review 135
Conditions For Layoff 51
Conduct & Rating Of Examinations Including Veterans' Preference Points 49
Conflict Of Interest - Nepotism 59
Conflict Of Interest/Nepotism 47
Conformity, Licensure Of DDA's 149
Consideration For Hire By Other Agencies 55
Consistency With National Standards, EMS Training Programs 66
Consultants & Persons Employed Under Independent Contract 46
Content Of Announcements, Recruitment Examination 49
Content Specialist 30
Content, Statewide Assessment Program 35
Continuing Education Requirement, Certified Sexual Evaluator Qualifications 206
Control Of Reportable & Restrictable Diseases In Certain Facilities 105
Course Coordinator, EMS Training 65
Credited State Service, RIF 53
Criminal Background Check, EMS Bureau 75
Critical Care Transfer (CCT) 62
Critical Care Transfer Service Standards 74
Cryptosporidiosis, Control Measures, Reportable Diseases 90
- D**
- DSH Survey Requirements 132
Day Care Facilities, Control Of Reportable, Restrictable Diseases 105
Decreases Or Closure Of Food Stamps 118
Definitions -- M Through Z, IDAPA 16.04.17, Rules Governing Residential Habilitation Agencies 156
Definitions -- P Through Z, IDAPA 16.04.11, Rules Governing Developmental Disabilities Agencies 146
Definitions (A Through L), IDAPA 16.03.13, Prior Authorization For Behavioral Health Services 135
Definitions (M Through Z), IDAPA 16.03.13, Prior Authorization For Behavioral Health Services 136
Definitions For Use With The Code Of Ethics For Idaho Professional Educators 27
Definitions, IDAPA 15.04.01, Rules Of The Division Of Human Resources & Personnel Commission 44
Definitions, IDAPA 16.02.03, Rules Governing Emergency Medical Services 62
Definitions, IDAPA 16.03.23, Rules Governing Uniform Assessments For State-Funded Clients 144
Definitions, IDAPA 22.01.04, Rules Of The Board Of Medicine For Registration Of Supervising & Directing Physicians 171
Definitions, IDAPA 22.01.11, Rules For Licensure Of Respiratory Therapists In Idaho 182
Definitions, IDAPA 57.01.01, Rules Governing The Sexual Offender Classification Board 203
Delegation Of Services Agreement 168
Demonstration Of High Risk, Evaluation For Violent Sexual Predator Review 212
Demotion 45
Denial And Revocation Of Certification, Certified Evaluator Qualifications 208
Denial Or Refusal To Renew License Or Permit Or Suspension Or Revocation Of License Or Permit, Respiratory Therapist 183
Denial Or Refusal To Renew Licensure Or Suspension Or Revocation Of Licensure, Athletic Trainers 178
Department Salary Administration Policies 48
Designation Of Clinical Capability, Ambulance Services 71
Determination Of Program Eligibility For Adults With A Developmental Disability 137
Developmental Disability 135
Developmental Therapy 129
Developmental Therapy & Evaluation 129
Diphtheria, Control Measures, Reportable Diseases 91
Disabled Veterans' Preference 50
Disciplinary Proceedings & Notification Of Change 168
Disclosure Requirement, Directing Physician 175
Documentation Of Program Changes, DDA's Providing Services To Consumers Without Targeted SC 152
Downward Reclass 52
Drugfree Workplace 59
Duration Of Eligibility Registers 50
During Entrance & Voluntary Probation, Unsatisfactory Service 56
Duties & Responsibilities Of Directing Physicians, Board Of Athletic Trainers 175
Duties Of Directing Physicians 171
Duties Of Supervising Physicians 172
- E**
- EMS Bureau 63
EMS Instructor Orientation 67
EMS Instructor Orientation, EMT-Basic Course Instructors 66
EMS Standards Manual 63
EMT-B Certification, Duration & Recertification 76
EMT-Intermediate Instructors 67
EMT-P Certification, Duration & Recertification 76
Educational And Professional Qualifications, Certified Evaluator 205
Educational Disability 128
Eligibility, Shift Differential 49
Emergency Medical Services (EMS) 62
Emergency Medical Technician- Basic (EMT-B) 63
Emergency Medical Technician- Ambulance (EMT-A) 63
Emergency Medical Technician- Intermediate (EMT-I) 63
Emergency Medical Technician- Paramedic (EMT-P) 63
Emergency, Medical Condition 62
Emission Limitations & Standards, Tier I Operating Permits 216
Employee Rights, Seasonal Appointment 51
Employment By Other Agency 55
Escherichia coli (E. coli) 0157-H7 / Other Shiga Toxin Producing E. coli (STEC), Control Measures, Reportable Diseases 91
Evaluation & Diagnostic Services, School Based Programs 129
Evaluation For Violent Sexual Predator Review 211

Evaluations, DDA's Providing Services
To Consumers With ISP's 150
Evaluations, DDA's Providing Services
To Consumers Without Targeted
SC 151
Exception Review 136
Excluded Real Estate Contract,
AABD 120
Experience Qualifications, Certified
Evaluator 205
Expiration And Renewal Of
Certification, Certified
Evaluator 207
Extraordinary Occurrence Of Illness,
Including Clusters, Control
Measures, Reportable Diseases 105

F

Failure To Cooperate, Evaluation For
Violent Sexual Predator Review 211
Fee For Initial Certification, EMS
Bureau 75
Fees, Athletic Trainers
Registration 178
Fees, Directing Physician 176
Fees, Outfitters & Guides 185
Fees, Physicians Supervising Physician
Assistants 172
Fire & Safety Standards, Building
Standards, DDA's 153
First Responder 63
First Responder Certification, Duration
& Recertification 76
Food Poisoning & Foodborne Illness,
Control Measures, Reportable
Diseases 105
Food Service Facilities, Control Of
Reportable, Restrictable
Diseases 107
Form Of The Report, Reportable
Disease 81

G

General Requirements, Tier I Operating
Permit 219
Geographic Coverage Description,
Ambulance Service Standards 69
Geographic Coverage Description,
Non-Transport Standards,
Ambulance Services 70
Giardiasis, Control Measures,
Reportable Diseases 91
Graduation From High School 33
Grandparenting Certificate, Drinking
Water System 229
Grandparenting, Drinking Water
System 229
Grounds For Discipline, Physician

Assistants 168

H

Haemophilus Influenzae Invasive
Disease, Control Measures,
Reportable Diseases 92
Handling Of Participant's Medications,
DDA's Employees 154
Handling Of Reports By The
Department & Districts, Idaho
Reportable Diseases 86
Hantavirus Pulmonary Syndrome,
Control Measures, Reportable
Diseases 92
Health, DDA's Employees 154
Hearing Officer, Appointed By The
Board 209
Hemolytic Uremic Syndrome (HUS),
Control Measures, Reportable
Diseases 92
Hepatitis A, Control Measures,
Reportable Diseases 92
Hepatitis B, Control Measures,
Reportable Diseases 93
Hepatitis C, Control Measures,
Reportable Diseases 93
High School Graduation Standards, 7/1/
00 34
Holiday Pay Calculation 48
Human Immunodeficiency Virus (HIV)
Infection, Control Measures,
Reportable Diseases 94
Human T-Lymphotropic Virus (HTLV)
Positive Tests, Control Measures,
Reportable Diseases 94

I

Identification Of Classifications,
RIF 54
Implementation Plan, DDA's Providing
Services To Consumers With
ISP's 150
Implementation Plan, DDA's Providing
Services To Consumers Without
Targeted SC 151
Impose Sanctions, Board Of Medicine
Upon A Respiratory Therapist 183
Individualized Education Program
(IEP) 128
Individuals Who Receive Personal
Assistance Services 141
Informed Consent 138
Initial Certification, EMS Training
Program 75
Initial Qualifications 31
Inspection, Ambulance Service
Standards 69
Inspection, Non-Transport Standards,

Ambulance Services 71
Instructor Qualifications, EMS
Training 65
Intake, DDA's Providing Services To
Consumers With ISP's 149
Intake, DDA's Providing Services To
Consumers Without Targeted
SC 151
Intention To Re-Offend, Evaluation For
Violent Sexual Predator Review 211
Interdisciplinary Team 136
Intermediate Care Facility For Persons
With Mental Retardation (ICF/
MR) 136
Involuntary Transfer 51
Issuance Of A Provisional License,
Denial Or Revocation Of License,
DDA's 149

L

Lapsed Certification, EMS 76
Layoff After Six Months' Disability 58
Layoff By Position, RIF 52
Layoff Unit, RIF 52
Lead Poisoning Or Excess Lead
Exposure, Control Measures,
Reportable Diseases 105
Leave Of Absence To Assume A
Nonclassified Position 59
Leave Of Absence With Pay 45
Leave Of Absence Without Pay 45
Legionellosis, Control Measures,
Control Measures, Reportable
Diseases 94
Leprosy, Control Measures, Reportable
Diseases 94
Leptospirosis, Control Measures,
Reportable Diseases 94
License, Ambulance Services 69
Licensed EMS Services 63
Licensure (Issuance, Expiration &
Renewal), Athletic Trainers 177
Licensure Board 182
Light Or Limited Duty 45
Limitations Of Scope Of Practice 175
Limitations On Service
Coordination 141
Listeriosis, Control Measures,
Reportable Diseases 95
Listing Of Services & Activities, Board
Of Athletic Trainers 175
Locating Victims, Good Faith Effort By
The Board 213
Lyme Disease, Control Measures,
Reportable Diseases 95

M

Malaria, Control Measures, Reportable

Diseases 95
Maternity & Paternity Leave 58
Measles, Control Measures, Reportable Diseases 95
Medical Control Plan, Non-Transport Standards, Ambulance Services 70
Medical Treatment Protocols, Ambulance Service Standards 69
Medical Treatment Protocols, Non-Transport Standards, Ambulance Services 70
Medical, Dental Or Optical Appointments Leave (MDA) 58
Mental Abnormality 203
Merit Increase 45
Minimum Human Resource Policies 59
Minimum Qualification Specialty 45
Monitoring, Tier I Operating Permits 216
Mumps, Control Measures, Reportable Diseases 96
Myocarditis, Viral, Control Measures, Reportable Diseases 96

N

National Registry Of Emergency Medical Technicians (NREMT) 63
Natural Science 25
Neisseria Gonorrhoeae Infections, Control Measures, Reportable Diseases 96
Neisseria Meningitidis Invasive Disease, Control Measures, Reportable Diseases 96
Nepotism, Human Resources, Personnel Commission 46
New Classification 45
No Fee Basis 46
Non-Transport 63
Non-Transport Service Minimum Standards Waiver, Ambulance Services 71
Non-Transport Service Personnel, Ambulance Services 70
Non-Transport Service Standards, Ambulance Services 69
Nondisciplinary Demotion Optional 57
Not To Be Treated As Employees 47
Notice Of Complaint, Certified Evaluator 210
Notice Of Designation As A Violent Sexual Predator 212
Notice, To Deny, Suspend, Revoke Certification 209
Notification Of Affected Employees, RIF 54

Notification To Administrator, RIF 54
Notification To Primary Care Physician 130
Notification, Unsatisfactory Service 56

O

Occasional Or Sporadic Work 45
Occupancy Adjustment Factor, Medicaid 132
Occupancy Levels, Occupancy Adjustment Factor 132
Offenders Subject To Evaluation, Sexual 205
On-Call Time 45
Operation Of Compensation Plan, Human Resources, Personnel Commission 48
Order Of Reduction In Force 54
Organizational Unit (Layoff Unit) 45
Other Specific Requirements, Tier I Operating Permits 219
Out-Of-Hospital 63

P

Para-Educator To Teacher 31
Paraprofessional 146
Paraprofessionals, Personnel Providing Developmental Disability Services 153
Parental Consent To Release Information 130
Payment For Services, Infant Toddler Program 130
Payment To Family Foster Care Providers, Providing Care For Children 161
Penalty Exceptions For Asset Transfers 121
Performance Evaluations 57
Periodic Compliance Certifications, Tier I Operating Permits 218
Permit Conditions Regarding Acid Rain Allowances, Tier I Operating Permits 219
Permit Duration, Tier I Operating Permits 219
Person Centered Planning Process 146, 156
Person-Centered Planning Process 136
Person-Centered Planning Team 136, 147, 156
Personal Care Services 141
Personality Disorder 203
Personnel, Advanced Life Support Transfer Standards 73
Personnel, Critical Care Transfer Service Standards 74

Personnel, Pre-hospital Advanced Life Support Standards 72
Personnel, Residential Habilitation Agencies 157
Pertussis, Control Measures, Reportable Diseases 97
Physical Therapist 147
Physician Recommendation, DDA's Providing Services To Consumers Without Targeted SC 151
Placement On Register 50
Placement On Register With Reemployment Preference 54
Plague, Control Measures, Reportable Diseases 97
Plan Developer 136, 147
Plan Monitor 136, 147
Plan Monitor Summary 136
Plan Monitoring 138
Plan Of Service 136, 137, 147
Pneumococcal Disease, Control Measures, Reportable Diseases 97
Pneumocystis Carinii Pneumonia (PCP), Control Measures, Reportable Diseases 97
Poliomyelitis, Control Measures, Reportable Diseases 98
Powers & Duties 182
Practice Standards And Guidelines For Members Of The Association For The Treatment Of Sexual Abusers, 2001 Edition 202
Pre-Hospital 63
Pre-Release, Offenders Subject To Evaluation, Sexual 205
Pre-Sentence, Offenders Subject To Evaluation, Sexual 205
Predatory 203
Pre-hospital Advanced Life Support Standards 72
Primary Or Lead EMT-B Instructors 66
Primary Or Lead Instructors, EMS 67
Prior Authorization (PA) 136, 147
Priority for Reemployment By Agency That Conducted The Layoff 54
Program Documentation, DDA's Providing Services To Consumers With ISP's 150
Program Documentation, DDA's Providing Services To Consumers Without Targeted SC 152
Promotion Of Entrance Probationary Employee 49
Property Tax Exemption Penalty 198
Provider Implementation Plan 138
Provider Qualifications, Adult

Developmentally Disabled 126
Provider Staff Qualifications 129
Provider Status Review 136, 147, 151
Provider Status Reviews 138
Provisional License, License Issued To A DDA 147
Provisional Licensure Fee, Athletic Trainers 178
Psittacosis, Control Measures, Reportable Diseases 98
Psychologist 147
Psychology Assistant 147
Psychosexual Evaluation 203, 211
Psychotherapy, DDA's 152
Public Records And Exemption Of Certain QIE Information From Disclosure 195

Q

Q Fever, Control Measures, Reportable Diseases 98
Qualifications Of EMT-Basic Course Instructors 66
Qualifications To Provide Intensive Behavioral Intervention, DDA's 152
Quality Assurance 204
Quality Assurance And Technical Review, Psychosexual Evaluations 211

R

Rabies, Control Measures, Reportable Diseases 98
Re-Entry, EMS Certification 76
Real Estate Contract Income 120
Reapplication, Athletic Trainers Registration 178
Reapplication, Certified Evaluator Qualifications 209
Reasonable Accommodations/ ADA 59
Record Keeping, The Sexual Offender Classification Board 204
Recordkeeping, Tier I Operating Permits 217
Records To Be Maintained, Non-Transport Standards, Ambulance Services 70
Records, DDA's Providing Services To Consumers Without Targeted SC 152
Reduction In Force 51
Reduction In Force Determination & Notification 54
Reduction Of Hours Worked 52
Referral By Directing Physician 175
Referrals From Federal Agencies On

Discrimination Complaints 57
Registered Pulmonary Function Technologist (RPFT) 182
Registration & Renewal 176
Registration For Athletic Trainers Currently Practicing In Idaho 177
Registration Of Directing Physicians Licensed To Practice Medicine & Surgery By The Board Of Medicine 176
Rehabilitation 147
Rehabilitative & Habilitative Services 148
Rehabilitative Services -- Developmental Disabilities Agencies, Medical Assistance 125
Reimbursable Services, School Based Programs 129
Reinstatement Fee, Athletic Trainers 179
Reinstatement Of Certification, EMS 76
Reinstatement, Athletic Trainers Registration 178
Reinstatements, Current, Former Employee 51
Relapsing Fever, Control Measures, Reportable Diseases 100
Relevant Labor Markets For Classifications Up To Two Hundred & Seventy Points 47
Renewal Fee - Inactive Licensure, Athletic Trainers 179
Renewal Fee, Athletic Trainers Registration 178
Renewal, Conditional Waiver, Certified Evaluator Qualifications 208
Reportable Diseases & Conditions 79
Reporting, Tier I Operating Permits 217
Representation, Conditional Waiver, Certified Evaluator Qualifications 207
Request For Conditional Waiver, Certified Evaluator Qualifications 207
Request For Hearing, Licensure Of DDA's 149
Request, Conditional Waiver, Certified Evaluator Qualifications 207
Required Ambulance Equipment, Ambulance Service Standards 67
Required Documentation, Advanced Life Support Transfer Standards 73
Required Documentation, Certification Duration & Recertification 76
Required Documentation, Critical Care

Transfer Service Standards 74
Required Documentation, Pre-hospital Advanced Life Support Standards 72
Required Equipment For Non-Transport Services, Ambulance Services 69
Required Equipment, Advanced Life Support Transfer Standards 73
Required Equipment, Critical Care Transfer Service Standards 74
Required Equipment, Pre-hospital Advanced Life Support Standards 73
Required Format For Psychosexual Evaluations, July 2003 Revision 203
Required Services, Provided By DDA's 152
Requirements For Cooperation With & Notification Of Parents & Agencies 130
Resources Defined, AABD 120
Respiratory Care Practitioner 182
Retention Of Evaluation, Performance 57
Return To Register 55
Reye Syndrome, Control Measures, Reportable Diseases 100
Right Care 137
Right Outcomes 137
Right Place 137
Right Price 137
Rocky Mountain Spotted Fever, Control Measures, Reportable Diseases 100
Rubella, Control Measures, Reportable Diseases 100

S

SIB-R 137
Salary Schedule 48
Salary Surveys 47
Salary Upon Reinstatement, Compensation Plan 48
Salmonellosis, Control Measures, Reportable Diseases 100
School-Based Health Related Services Provided By Idaho Public School Districts & The Idaho Infant Toddler Program Under The Individuals With Disabilities Education Act (IDEA) 128
Schools, Control Of Reportable, Restrictable Diseases 108
Scope Of Evaluation, Violent Sexual Predator Review 211
Scope Of Practice, Board Of Athletic Trainers 175
Seasonal Appointment 51
Separation During Probation 56

Separation Upon Failure To Return To Work 58
Service Coordination 137, 148
Service Coordination For Personal Assistance Services 141
Service Coordinator 137, 148
Service Provision Procedures, Residential Habilitation Agencies 157
Service-Specific Eligibility 129
Severe Acute Respiratory Syndrome (SARS) 101
Severe Reaction To Any Immunization, Control Measures, Reportable Diseases 105
Sexual Harassment & Other Illegal Discrimination 59
Sexual Offender 204
Sexually Violent Offense 204
Shift Differential 49
Shigellosis, Control Measures, Reportable Diseases 102
Sick Leave, Earned 57
Site-Specific Criteria For Water Temperature 226
Smallpox, Control Measures, Reportable Diseases 102
Snake River, Subsection 130.01, HUC 17060101, Unit S1, S2, And S3 226
Social Worker 148
Special Leaves 59
Specialized Training, Certified Evaluator Qualifications 205
Specific Control Measures For Reportable Diseases 87
Speech & Language Pathologist 148
Standard Contents Of Tier I Operating Permits 216
Standards For DDA's Providing Services To Participants Under Age Eighteen Who Do Not Use ISSH Waiver Services. 151
Standards For Developmental Disabilities Agencies Providing Services To Participants Age Eighteen Or Older & ISSH Waiver Participants 149
Standards For Professional Conduct And Client Relations, Certified Evaluator Qualifications 206
Standards, EMS Training Programs 65
State Developmental Disability Authority 148
State Health Officer 63
Statewide EMS Advisory Committee 63
Streptococcus Pyogenes, Group A,

Infections Which Are Invasive Or Result In Rheumatic Fever, Control Measures, Reportable Diseases 102
Student Achievement Levels 36
Substantial Compliance 148
Supervisors' Requirements 57
Supports 148
Syphilis, Control Measures, Reportable Diseases 103

T

TSC Provider Staff Qualifications, Medical Assistance 124
Targeted Developmental Disabilities Service Coordination, Medical Assistance 124
Temporary Developmental Disabilities Site Approval 148
Terms Or Conditions For Applicable Requirements, Tier I Operating Permits 216
Testing Population, Assessment In The Public Schools 35
Testing, Tier I Operating Permits 218
Tetanus, Control Measures, Reportable Diseases 103
The Role Of Developmental Disabilities Agencies (DDA's) 148
Therapy Services 125
Toxic Shock Syndrome, Control Measures, Reportable Diseases 103
Trading Scenarios, Tier I Operating Permits 216
Training & Certification, Intensive Behavioral Intervention, DDA's 152
Training Facility Access, Non-Transport Standards, Ambulance Services 70
Transfers, Current Employee 51
Trichinosis, Control Measures, Reportable Diseases 103
Tuberculosis, Control Measures, Reportable Diseases 103
Tularemia, Control Measures, Reportable Diseases 104
Types Of Eligibility Registers 50

U

U.L. Underwriters Laboratories 148
Under IDOC Supervision, Offenders Subject To Evaluation, Sexual 205
Uniform Assessment 144
Unprofessional Conduct, Athletic Trainers 178
Unprofessional Conduct, Dentist Or Hygienist 163
Unsatisfactory Performance During A

Promotion Probation Period 56
Use Of Leave In A Workers Compensation Claim 58
Use Of Registers With Reemployment Preference Requirements 54
Use Of Sick Leave, Maternity & Paternity Leave 58

V

Veterans' Preference, Examinations 49
Veterans' Preference Points For Initial Appointment Only 50
Veterans' Preference, Idaho Resident 46
Victim Confidentiality Protected, Evaluation For Violent Sexual Predator Review 213
Victim Participation, Evaluation For Violent Sexual Predator Review 213
Violent Sexual Predator 204
Violent Sexual Predators, Record Keeping 204
Viral Or Aseptic, Encephalitis, & Meningitis, Control Measures, Reportable Diseases 104
Voluntary Demotion In Lieu Of Layoff, Employee With Permanent Status 55

W

Waiver Services 141
Waiver Services For Adults With Developmental Disabilities & ISSH Waiver Participants 126
War Veteran (War Era) And Disabled Veteran Defined (For Preference Points On Competitive Exam 46
West Nile Virus (WNV) Infection 104
When To Report, Diseases 82
Workers Compensation & Disability 58
Workweek 46

Y

Yersiniosis, Control Measures, Reportable Diseases 105