

# IDAHO ADMINISTRATIVE BULLETIN

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# Preface

*The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making 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 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 rule-making activities.*

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin 04-1 refers to the first Bulletin issued in calendar year 2004; Bulletin 05-1 refers to the first Bulletin issued in calendar year 2005. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 04-1 refers to January 2004; Volume No. 05-2 refers to February 2005; and so forth. Example: The Bulletin published in January of 2005 is cited as Volume 05-1. The December 2004 Bulletin is cited as Volume 04-12.*

## **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 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, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the 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 the 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 consensus on the content of a 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.*

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### **PROPOSED RULEMAKING**

A proposed rulemaking is an action by an agency wherein 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. This notice must include:

- a) the specific statutory authority (from Idaho Code) 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 as provided in Section 67-5222, Idaho Code; 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. 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) 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 legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law required 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 the proposed rule, the rulemaking can be done concurrently as a proposed/temporary 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 Rulemaking". This includes:*

- a) a statement giving 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;*
- 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 change 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 Rulemaking" 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 an 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 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 that 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, Twin Falls, Lewiston and East Bonner County 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 83720-00306, telephone (208) 332-1820.

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

*The Idaho 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 Rule Making Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

**Internet Access** - The Administrative Code and Administrative Bulletin are available on the Internet at the following address:

<http://www2.state.id.us/adm/adminrules/>

## **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 38.07.01.200.02.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 Administrations's Division of Purchasing

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

"**200.**" refers to Major Section 200, "Content of the Invitation to Bid"

"**02.**" refers to Subsection 200.02.

"**c.**" refers to Subsection 200.02.c.

"**ii.**" refers to Subsection 200.02.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 "-", (38-0501-0501). 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. 38-0501-0501"

"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**).

"0501" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2005.

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 of a rule 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."

The citation may also include the IDAPA, Title, or Chapter number, 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 rule.

"01" denotes the Chapter number of the rule.

: "201" references the main Section number of the rule that the citation refers to.

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 2005**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
05-1	January 2005	<b>*November 19, 2004</b>	January 5, 2005	January 26, 2005
05-2	February 2005	January 5, 2005	February 2, 2005	February 23, 2005
05-3	March 2005	February 2, 2005	March 2, 2005	March 23, 2005
05-4	April 2005	March 2, 2005	April 6, 2005	April 27, 2005
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05-9	September 2005	August 3, 2005	September 7, 2005	September 28, 2005
05-10	October 2005	<b>**August 24, 2005</b>	October 5, 2005	October 26, 2005
05-11	November 2005	October 5, 2005	November 2, 2005	November 23, 2005
05-12	December 2005	November 2, 2005	December 7, 2005	December 28, 2005

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2006**

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06-1	January 2006	<b>*November 16, 2005</b>	January 4, 2006	January 25, 2006
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06-11	November 2006	October 4, 2006	November 1, 2006	November 22, 2006
06-12	December 2006	November 1, 2006	December 6, 2006	December 27, 2006

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

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

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<b>IDAPA 43</b>	<b>Canola and Rapeseed Commission, Idaho</b>	<b>VOLUME 8</b>
<b>IDAPA 09</b>	<b>Commerce and Labor, Idaho Department of</b>	<b>VOLUME 2</b>
<b>IDAPA 06</b>	<b>Correction, Board of</b>	<b>VOLUME 2</b>
<b>IDAPA 19</b>	<b>Dentistry, Board of</b>	<b>VOLUME 6</b>
<b>IDAPA 08</b>	<b>Education, Board of and Department of</b>	<b>VOLUME 2</b>
<b>IDAPA 10</b>	<b>Engineers and Land Surveyors, Board of Professional</b>	<b>VOLUME 2</b>
<b>IDAPA 58</b>	<b>Environmental Quality, Department of</b>	<b>VOLUME 9</b>
<b>IDAPA 12</b>	<b>Finance, Department of</b>	<b>VOLUME 3</b>
<b>IDAPA 13</b>	<b>Fish and Game, Department of</b>	<b>VOLUME 3</b>
<b>IDAPA 14</b>	<b>Geologists, Board of Registration of Professional</b>	<b>VOLUME 3</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS</b>		
<b>IDAPA 15</b>	<b>Governor</b> , Office of the Idaho Commission on Aging Idaho Commission for the Blind and Visually Impaired Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission	<b>VOLUME 3</b>
<b>IDAPA 16</b>	<b>Health and Welfare</b> , Department of	<b>VOLUMES 3, 4, &amp; 5</b>
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<b>IDAPA 22</b>	<b>Medicine</b> , Board of	<b>VOLUME 6</b>
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<b>IDAPA 24</b>	<b>Occupational Licenses</b> , Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Drinking Water and Wastewater Specialists 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 Board of Professional Counselors and Marriage and Family Therapists Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	<b>VOLUME 6</b>

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<b>IDAPA 50</b>	<b>Pardons and Parole, Commission for</b>	<b>VOLUME 9</b>
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<b>IDAPA 27</b>	<b>Pharmacy, Board of</b>	<b>VOLUME 7</b>
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<b>IDAPA 34</b>	<b>Secretary of State, Office of the</b>	<b>VOLUME 7</b>
<b>IDAPA 49</b>	<b>Shorthand Reporters, Board of Certified</b>	<b>VOLUME 8</b>
<b>IDAPA 36</b>	<b>Tax Appeals, Board of</b>	<b>VOLUME 7</b>
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<b>IDAPA 54</b>	<b>Treasurer, Office of the State</b>	<b>VOLUME 8</b>
<b>IDAPA 21</b>	<b>Veterans Services, Division of</b>	<b>VOLUME 6</b>
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<b>IDAPA 55</b>	<b>Vocational and Technical Education, Division of</b>	<b>VOLUME 9</b>
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<b>IDAPA 37</b>	<b>Water Resources, Department of</b>	<b>VOLUME 8</b>
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**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2005-09**

**SUPPORTING A STREAMLINED SALES TAX PROJECT**

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*WHEREAS, the mission of the Streamlined Sales Tax Project is to develop measures to design, test and implement a sales and use tax system that radically simplifies sales and use taxes; and*

*WHEREAS, a simplified sales and use tax system would reduce the administrative burden on Idaho businesses who now collect and remit Idaho sales and use taxes; and*

*WHEREAS, simplified collection of sales and use taxes would benefit Idaho's taxpayers; and*

*WHEREAS, the ability of out-of-state ("remote") sellers to sell non-exempt items without collecting and reporting Idaho use tax gives the remote sellers an unfair advantage over local Idaho businesses; and*

*WHEREAS, simplifying the collection of sales and use taxes in a manner that is uniform with the requirements of other states will encourage compliance with Idaho's sales and use tax collection requirements by the remote sellers who do not now collect Idaho taxes, and*

*WHEREAS, forty-three states and the District of Columbia have agreed to participate in the Streamlined Sales Tax Project, which was created to develop measurements to design, test, and implement a sales and use tax system that radically simplifies sales and use taxes; and*

*WHEREAS, appropriate executive action is necessary to allow Idaho to be a participating state in the Streamlined Sales Tax Project;*

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

*(1) The State of Idaho supports the mission of the Streamlined Sales Tax Project and is committed to simplifying the sales and use tax system for all taxpayers.*

*(2) The Chairman of the State Tax Commission or his designee shall be Idaho's representative and shall participate in the Streamlined Sales Tax Project. The Chairman or his designee shall have the authority to vote on behalf of the State of Idaho. The Chairman shall name an alternate representative who may vote in the absence of the representative.*

*(3) The State of Idaho shall participate in the system in accordance with the Structure and Operating Rules of the Streamlined Sales Tax Project adopted on March 20, 2000, as may be amended.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 29<sup>th</sup> day of July in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.*

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**DIRK KEMPTHORNE  
GOVERNOR**

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**BEN YSURSA  
SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2005-10**

**ESTABLISHMENT OF NON-SMOKING POLICY IN STATE BUILDINGS  
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-01**

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*WHEREAS, it is in the best interest of Idaho citizens for the state to promote public health by increasing the awareness of the dangers and consequences of smoking; and*

*WHEREAS, it is the state's duty, as an employer, to provide a healthy work environment, and to protect public buildings against fire damage and other related property damage; and*

*WHEREAS, a uniform state policy relating to smoking in state-owned and state-leased buildings will promote these goals.*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, have determined that a non-smoking policy in public buildings is a prudent one; therefore, I hereby direct that the following policy shall continue to govern officers and employees of the State of Idaho:*

*All state-owned or state-leased buildings, facilities, or areas occupied by state employees shall be designated as "non-smoking" except for custodial care and full-time residential facilities. The policy governing custodial care and full-time residential facilities may be determined by the directors of such facilities.*

*FURTHER, I hereby encourage all employees in the State of Idaho to promote a non-smoking policy in all buildings occupied by state employees.*

*This Executive Order repeals and replaces Executive Order 2000-01.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 11th day of July in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.*

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**DIRK KEMPTHORNE  
GOVERNOR**

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**BEN YSURSA  
SECRETARY OF STATE**



**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2005-11**

**ESTABLISHING THE IDAHO HOMELESSNESS POLICY COUNCIL**

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*WHEREAS, homelessness is one of the most challenging domestic issues facing the United States, and Idaho;*

*WHEREAS, housing has been found to be the most commonly identified challenge facing those in need; and*

*WHEREAS, the purpose of this Executive Order is to establish a council and recognize the need to develop a statewide plan that would include short-term and long-term strategies to effectively address the issues facing Idaho's homeless population; and*

*WHEREAS, the development of the statewide plan by the council should serve to educate all Idahoans about the tragedy of homelessness and engage both governmental agencies and the private sector in finding solutions to this problem; and*

*WHEREAS, an administrative policy with the goal of ending chronic homelessness must be established as a requirement for federal grant funding.*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho do hereby establish the Idaho Homelessness Policy Council.*

- 1. Council members are appointed by the governor to serve at the pleasure of the governor. The initial appointments shall be made for terms of 1, 2 and 3 years, as determined by the Governor. Successive appointments shall be made for 3 year terms.*
  - 2. The executive director of the Idaho Housing and Finance Association, or the executive director's designee, shall chair the council. The designation of pertinent agencies and other entities for the Idaho Homelessness Coordinating Committee (IHCC) will be the responsibility of the chair of the council. The chair on an annual basis will report to the Policy council on the progress of the IHCC. The council will appoint representative membership on the IHCC to accomplish directed projects and tasks in order to prepare an action plan for the state of Idaho.*
  - 3. Council members will be representatives of appropriate state agencies, with ex-officio representation by the lieutenant governor or the lieutenant governor's designee and by the director of the United States Department of Housing and Urban Development of Idaho or the director's designee.*
  - 4. The council may invite to its meetings other non-voting representatives from federal and local government agencies, the business community, providers of services to the homeless, philanthropic agencies, faith-based organizations, homeless persons advocacy organizations, homeless people, and community leaders.*
- A. The Idaho Homelessness Policy Council shall prepare and submit to the Governor a statewide homeless Idahoans action plan by October 31, 2005. The action plan must include at least the following:*
- 1. Accurate fiscal and demographic information on the homeless in this state, to support policy development;*
  - 2. An inventory and analysis of all existing activities and programs in this state that assist the homeless;*

3. *An inventory and assessment of existing statutory and regulatory provisions relating to the homeless and suggested changes to those provisions needed to implement the plan;*
4. *Short-term and long-term statewide strategies designed to substantially decrease homelessness in this state within the next 10 years; these strategies should:*
  - a. *Identify funding opportunities to assist homeless people in this state;*
  - b. *Involve non-traditional stakeholders, including business, philanthropic, faith-based, and other community organizations; and*
  - c. *Promote systems integration, including interagency agreements, to reduce duplication among homeless assistance programs;*
5. *Performance measures and accountability mechanisms to provide policymakers with tools to assess the success of the plan over time.*

*In addition, the council shall conduct a public hearing on the issue of homelessness.*

*The council shall monitor and review implementation of the action plan, and shall provide to the Governor an annual report containing the council's findings and recommendations regarding implementation of the plan.*

*The Idaho Housing and Finance Association shall provide administrative support for the council. In accordance with law, the IHFA may enter into intergovernmental agreements necessary to accomplish the purposes of this Order.*

*The following general provisions apply to the activities of the council:*

1. *Council members do not receive compensation as a member of the council. Per Diem and travel expenses for members of the council are the responsibility of the state or federal agency the member represents.*
2. *To reduce costs, the council may use teleconferencing or other electronic means to the extent practicable in order to gain the widest public participation at minimum cost.*
3. *The council shall establish procedures for voting and meetings of the council.*
4. *Meetings of the council shall be conducted, and notice of the meetings provided, in accordance open meetings laws of the State of Idaho.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 29th day of July in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.*

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**DIRK KEMPTHORNE**  
**GOVERNOR**

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**BEN YSURSA**  
**SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2005-12**

**ENERGY CONSERVATION CONSIDERATIONS IN STATE BUILDINGS,  
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2001-04**

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*WHEREAS, the efficient use of energy is of prime importance to the energy supply and economic well-being of the State of Idaho; and*

*WHEREAS, the State of Idaho uses, in its state building facilities, a considerable portion of the state's energy supply; and*

*WHEREAS, The Director of Administration did convene a task force for the purposes of identifying energy conservation solutions for the State of Idaho government facilities;*

*NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order that all state government facilities shall include, where feasible, energy conservation strategies as identified by the Department of Administration. The strategies shall maintain that:*

- 1. All personal computer systems should be shut down when not in use for more than two hours. This should include all evening and weekend hours. During working hours, screen savers should be disabled and energy-saving, power-down features should be enabled;*
- 2. The temperatures in all State buildings should be held to between 74-to-78 degrees in the summer and 68-to-70 degrees in the winter. Buildings heated with geothermal water may exceed the winter temperature range;*
- 3. Lights in office areas should be turned off during weekends and evenings;*
- 4. Exterior lighting should be shut off during all daylight hours and between midnight to five o'clock a.m. Necessary security and safety lighting should remain on as required;*
- 5. All main heating, ventilation and air-conditioning systems (HVAC) should be reviewed for efficient operations. Setback times should be re-evaluated and adjusted to the absolute minimum time required to heat and cool buildings to prepare for operations. All filter-changing procedures should be re-evaluated to determine if changes need to be done more often for efficient operation of the systems;*
- 6. The use of personal heaters should be limited to energy-efficient heated mats or other high-efficiency heaters;*
- 7. All hot water heaters should be reduced in temperature to 140 degrees. Some State institutions may require higher heat levels to meet code requirements;*
- 8. All hot water circulation loops should be examined to determine their necessity;*
- 9. Office equipment, such as copy machines, should be shut down during off hours;*
- 10. Lights in storage areas should only be turned on when occupied;*
- 11. HVAC systems should not be operated in off hours for small groups of employees. Heating or cooling an entire building for a small group is not energy efficient;*

12. *All State building exterior surfaces should be evaluated for thermal efficiency. Insulation, window gaskets and seals should be replaced as required;*
13. *Off-hour security and janitorial crews should be instructed to turn off lights as work is complete in office areas; and*
14. *All vending machines should have the lights turned off, and any redundant machines should be removed.*

*This Executive Order repeals and replaces Executive Order 2001-04 and shall cease to be effective four years after its entry into force.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 29th day of July in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.*

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*DIRK KEMPTHORNE*  
*GOVERNOR*

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*BEN YSURSA*  
*SECRETARY OF STATE*

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2005-14**

**CONTINUING IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY  
REPEALING AND REPLACING EXECUTIVE ORDER NO. 1999-06**

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*WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and*

*WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and*

*WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and*

*WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;*

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

1. *Each department director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to:*
  - a) *The public employee;*
  - b) *The general public;*
  - c) *State property;*
  - d) *The ability of the agency to fulfill its mission; and,*
  - e) *The environment.*

*The continued development, maintenance, and monitoring of a systematic program of safety and loss control should be a priority objective for each agency.*

2. *Each department director or other appointing authority will continue to ensure that potential new state employees are appropriately screened, that new employees are systematically and fully trained in safe work practices and the use of all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when needed and that adherence to safety practices is a criterion in employee and supervisor performance evaluations.*
3. *Each department director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each department director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.*

4. *All buildings owned or maintained by any state government agency or entity, or constructed or renovated specifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not limited to, the Idaho General Safety and Health Standards, the state-adopted building code, the mechanical code and the fire code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of buildings owned or maintained by the State of Idaho where appropriate and consistent with state law, construction plans shall be reviewed and approved by the Division of Building Safety, the State Fire Marshal's Office, and the Permanent Building Fund Advisory Council.*
5. *The following agencies shall continue to assist other state agencies by offering the following services:*
  - a. *The Division of Building Safety shall inspect public buildings and places of employment and enforce safety and sanitary conditions and practices.*
  - b. *The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.*
  - c. *The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.*
  - d. *The Department of Administration, Bureau of Risk Management, shall, whenever needed or requested, assist agencies in developing their safety and loss control programs. The Department of Administration, Bureau of Risk Management, shall also assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including, but not limited to general property and casualty loss control, and shall provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.*
  - e. *The Division of Human Resources shall, within available resources, provide training for agency human resources supervisors and management personnel on employment law and practices that impact Safety and Loss Control, as well as develop specific training designed to help promote worker safety and reduce risk of liability, in response to data provided by the Statewide Safety and Loss Control Committee.*
6. *A Statewide Safety and Loss Control Committee shall be comprised of the Administrator of the Division of Building Safety, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary by the Governor. The purpose of the Committee shall be to:*
  - a. *Monitor and maintain a Statewide Safety and Loss Control Program model of a proactive nature supported by a system to track the progress of the program;*
  - b. *Develop strategies and standards to assist agencies with their safety programs;*
  - c. *Review statewide trends in losses and exposures and make cost-effective recommendations;*
  - d. *Aid in the coordination of the services available to maximize efficiency and reduce unnecessary duplication of inspections;*
  - e. *Coordinate the development of existing statewide resources related to safety and loss control activities and the sharing of those resources across all state agencies to provide safety and loss control outreach resource services;*
  - f. *On behalf of the Governor, periodically review the safety and loss control programs of selected agencies and recommend changes to improve the effectiveness of the programs;*

- g. *Make recommendations to the Governor and Legislature on improving safety and loss control for state government;*
- h. *Convene and meet on a quarterly basis, or more frequently if necessary, to plan, implement and review the Statewide Safety and Loss Control Program; and*
- i. *Perform other related duties as may be requested by the Governor.*

*This Order repeals and replaces Executive Order No. 1999-06.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 1st day of August in the year of our Lord two thousand and five, and of the Independence of the United States of America the two hundred thirtieth and of the Statehood of Idaho the one hundred sixteenth.*

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*DIRK KEMPTHORNE*  
*GOVERNOR*

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*BEN YSURSA*  
*SECRETARY OF STATE*

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

**02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW**

**DOCKET NO. 02-0602-0502**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2724, 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 September 21, 2005.

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:

This change will update the incorporation by reference section to reflect the 2006 edition of the Official Publication of the Association of American Feed Control Officials (AAFCO), usually published in January or February each year. This is a standard reference manual for feed control officials for the registration of animal feeds.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact with the adoption of this rule change. This is a dedicated fund program.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 29th day of July, 2005.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-0502**



**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (4-6-05)

**01. The Association of American Feed Control Officials (AAFCO) Official Publication.** The Terms, Ingredient Definitions and Policies as published in the "2005~~6~~ Official Publication" of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. (~~3-1-05~~)F( )

**02. The Merck Index.** The "2001 Merck Index," 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (4-6-05)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.12 - RULES PERTAINING TO THE IDAHO COMMERCIAL FERTILIZER LAW

DOCKET NO. 02-0612-0501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, 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 September 21, 2005.

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:

This change will update the incorporation by reference section to reflect the 2006 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), usually published in January or February each year. This is a standard reference manual for fertilizer control officials for the registration of fertilizers.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact with the adoption of this rule change. This is a dedicated fund program.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 29th day of July, 2005.

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

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-0501

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (3-30-01)

**01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.** The Terms, Ingredient Definitions, and Policies, as published in the “2005~~6~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder; or ~~(4-6-05)~~( )

**02. The Merck Index.** The “2001 Merck Index,” 13th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (4-6-05)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

#### DOCKET NO. 02-0641-0501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2204, 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 September 21, 2005.

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:

This change will update the incorporation by reference section to reflect the 2006 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), usually published in January or February each year. This is a standard reference manual for fertilizer control officials for the registration of soil and plant amendments.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact with the adoption of this rule change. This is a dedicated fund program.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 29th day of July, 2005.

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

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-0501

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-6-05)

**01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.** The Terms, Ingredient Definitions and Policies as published in the "2005~~6~~ Official Publication" of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. (~~4-6-05~~)( )

**02. The Merck Index.** The "2001 Merck Index," 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (4-6-05)

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.02.03 - RULES GOVERNING PERMIT FEE SCHEDULE**  
**DOCKET NO. 07-0203-0501 (FEE RULE)**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2606(3)(a) and 54-2606(3)(b), 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 September 21, 2005.

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:

Plumbing contractors who install plumbing in a one- or two-family residence must currently pay two permit fees: one for plumbing and another for water and sewer service lines. The proposed rule will eliminate the payment of double permit fees, reducing the cost when a plumbing contractor installs the plumbing and water and sewer service lines.

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

The proposed rule will reduce the permit fee paid by plumbing contractors installing sewer and water service lines in a one- or two-family residence from fifty (\$50) dollars to sixteen (\$16) dollars.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The proposed rule will have no fiscal impact on the general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the decrease in fees was discussed at public Idaho State Plumbing Board meetings across the state.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

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

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0203-0501**

**011. FEE SCHEDULE.**

**01. Residential.** To include all single family dwellings, apartments, condominiums, townhouses, and/or multiple living units: Each living unit in an apartment, condominium, townhouse, or other multiple living unit shall require a residential permit fee for each living unit. Permit fee -- thirty dollars (\$30); plus an inspection fee of eight dollars (\$8) per fixture (excluding garbage disposals and dishwashers in new construction) in the plumbing system of the building or premises. Replacement of fixtures in residences requires a permit of thirty dollars (\$30) plus eight dollars (\$8) per fixture. Separate permits are required for all residential sewer and water service line installations as per IDAPA 07.02.03, ~~Subsection 011.08 and IDAPA 07.02.03, Subsection 011.10~~ unless done by plumbing contractor at time of new installation. In that event, rate will be eight dollars (\$8) each. (7-11-89)( )

**02. Nonresidential.** To include commercial, industrial, and other installations: The inspection fees listed in this Section shall apply to any and all plumbing installations not specifically mentioned elsewhere in this schedule. The plumbing cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all plumbing materials and equipment installed as part of the plumbing system. For uniformity of fees when labor is performed, such labor cost shall be based upon the market value of said labor. Permit fee: To include inspection of the water service pipe to the building and waste discharge pipe from the building if the work is done by the plumbing contractor who permits the building plumbing - thirty dollars (\$30); plus an inspection fee based on the selling price of the completed installation, to be: Three percent (3%) of the value of the installation up to and including twenty thousand dollars (\$20,000); plus, two percent (2%) of the value of the installation in excess of twenty thousand dollars (\$20,000) up to and including one hundred thousand dollars (\$100,000); plus, one percent (1%) of the value of the installation in excess of one hundred thousand dollars (\$100,000) up to and including two hundred thousand dollars (\$200,000); plus, one-half of one percent (1/2%) of the value of the installation in excess of two hundred thousand dollars (\$200,000). Schools, hospitals, churches, hotels, and motels are classed as commercial. The thirty dollars (\$30) minimum permit fee applies to all new construction and to remodel or alteration jobs. Replacement of fixtures in existing commercial and industrial buildings requires the inspection fee of thirty dollars (\$30) plus eight dollars (\$8) per fixture (water heaters, lavatories, etc.). Fixtures common only to commercial and industrial, shall be inspected at the eight dollars (\$8) rate per unit. Separate permits as per IDAPA 07.02.03, Subsection 011.09 and IDAPA 07.02.03, Subsection 011.12 will be required for sewer and water service lines, if not done by the plumbing contractor doing the building plumbing. (7-11-89)

**03. Commercial Coaches/Manufactured Buildings.** All commercial coaches and manufactured buildings constructed in Idaho or constructed for use in Idaho must purchase permits as per the residential fee schedule. (7-11-89)

**04. Mobile Homes.** Each connection or re-connection to existing sewer and water stubs shall be forty dollars (\$40). (7-11-89)

**05. Mobile Home Parks and/or RV Parks.** Sewer and water service lines in mobile home parks and/or RV parks shall be classed as commercial. NOTE: This does not include or permit the connection of the mobile home. See IDAPA 07.02.03, Subsection 011.04. (7-11-89)

**06. Residential.** Lawn sprinklers shall be thirty dollars (\$30) plus eight dollars (\$8) for each backflow prevention device. (7-11-89)

**07. Water Conditioners.** Water conditioners shall be thirty dollars (\$30) plus eight dollars (\$8) per unit. (7-11-89)

**08. ~~New Installations and Replacements~~ Sewer and Water Permit Fees.** Residential sewer and water service line fees shall apply to all new construction, installations, and replacements. ~~See IDAPA 07.02.03, Subsection 011.10.~~ (7-11-89)( )

~~109a.~~ ~~Sewer And Water Permit Fees.~~ Sewer and water permit fees for excavators or property owners shall be assessed at the same rate as residential or ~~commercial~~ nonresidential based on the classification of the construction project. (7-11-89)(\_\_\_\_)

~~10b.~~ Residential sewer and water service lines installation permit fees: will be assessed at the rate of thirty-eight dollars (\$38) each or fifty dollars (\$50) for a combination of both if only one (1) inspection is required and the work is done by the same individual. (7-11-89)(\_\_\_\_)

~~109.~~ **Non-residential.** Lawn sprinkler permit fees shall be calculated at the same rate as nonresidential plumbing; three percent (3%) of the value of the installation up to and including twenty thousand dollars (\$20,000), plus two percent (2%) of the value of the installation in excess of twenty thousand dollars (\$20,000) up to and including one hundred thousand dollars (\$100,000), plus one percent (1%) of the value of the installation in excess of one hundred thousand dollars (\$100,000) up to and including two hundred thousand dollars (\$200,000), plus one-half of one percent (1/2%) of the value of the installation in excess of two hundred thousand dollars (\$200,000). (7-11-89)

~~120.~~ **Nonresidential Sewer and Water Service Lines Permit Fees.** If installed by someone other than the plumbing contractor of the building, fees shall be calculated at the same rate as nonresidential plumbing; three percent (3%) of the value of the installation up to and including twenty thousand dollars (\$20,000), plus two percent (2%) of the value of the installation in excess of twenty thousand dollars (\$20,000) up to and including one hundred thousand dollars (\$100,000), plus one percent (1%) of the value of the installation in excess of one hundred thousand dollars (\$100,000) up to and including two hundred thousand dollars (\$200,000), plus one-half of one percent (1/2%) of the value of the installation in excess of two hundred thousand dollars (\$200,000). (7-11-89)

~~131.~~ **Requested Inspections of Existing Plumbing.** Thirty-eight dollars (\$38) minimum for one (1) hour or less. Over one (1) hour, thirty-eight dollars (\$38) plus nineteen dollars (\$19) for each one-half (1/2) hour or portion thereof in excess of one (1) hour, including travel time. (7-11-89)

~~142.~~ **Reinspection.** The cost of reinspection shall be thirty-eight dollars (\$38). (7-11-89)

~~153.~~ **Other.** Fee for permits not clearly giving location of installation, either by direction or maps -- thirty dollars (\$30). (7-11-89)

~~164.~~ **Plan Checking Fee.** Thirty dollars (\$30) minimum for one (1) hour or less. Over one (1) hour -- thirty dollars (\$30) plus fifteen dollars (\$15) for each one-half (1/2) hour or portion thereof. (7-11-89)

~~175.~~ **Technical Service Fee.** Thirty-eight dollars (\$38) minimum for one (1) hour plus nineteen dollars (\$19) for each one-half (1/2) hour or portion thereof. (7-11-89)

~~186.~~ **No Permit.** Failure to send permit and required fee in the prescribed time will, at the discretion of the Department, result in the assessment of a double fee. (7-11-89)

~~197.~~ **Multipurpose Residential Fire Sprinkler and Domestic Water Supply System Fee.** The inspection fee for the installation of the fire sprinkler portion of a multipurpose residential fire sprinkler and domestic water supply system in a one- or two-family residence shall be a minimum of sixty dollars (\$60) or four dollars (\$4) per fire sprinkler head, whichever is greater. (3-24-05)



## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

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

**DOCKET NO. 07-0701-0501**

#### **NOTICE OF CORRECTION TO PENDING RULE**

**CORRECTION SUMMARY:** This notice corrects an error that occurred during the publication of the proposed rulemaking under Docket No. 07-0701-0501 in the June 1, 2005 Administrative Bulletin, Vol. 05-6. Certain subsections of the temporary rule were found to be inconsistent with legislative intent and were rejected and declared null, void and of no force and effect by Senate Concurrent Resolution No. 116 (SCR 116) during the 2005 legislative session. These subsections were inadvertently left in the rule and published and shown as stricken text in the proposed rulemaking. Specifically, Subsections 07.07.01.005.01.d, 005.01.i, 006.01.e and 006.01.i. were rejected by SCR 116 and should have been removed from the Administrative Code and should not have appeared in the proposed rule. This notice hereby corrects this mistake and the pending rule accordingly.

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective upon 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:** This action is authorized pursuant to Sections 67-5224 and 67-5228, Idaho Code. The corrected text of the pending rule is being reprinted here as adopted by the agency.

**PENDING RULE:** The pending rule was published in the August 3, 2005 Idaho Administrative Bulletin, Volume 05-8, page 33. The original text of the proposed rule was published in the June 1, 2005 Idaho Administrative Bulletin, Volume 05-6 pages 23 through 29.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction to pending rule, contact Dennis Stevenson, Administrative Rules Coordinator, Office of the Administrative Rules Coordinator, (208) 332-1820.

DATED this 22nd day of August, 2005.

Dennis Stevenson  
Administrative Rules Coordinator  
Office of Administrative Rules  
650 W. State St., Boise, Idaho 83720-0306  
Telephone: (208) 332-1820  
Facsimile: (208) 332-1896

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#### **THE FOLLOWING IS THE CORRECTED TEXT OF PENDING RULE DOCKET 07-0701-0501**

##### **005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2003 EDITION.**

###### **01. The International Fuel Gas Code, 2003 Edition, including appendixes "A, B, C, and D," (herein**

IFGC) is adopted and incorporated by reference with the following amendments: ( )

**a.** Where differences occur between the IFGC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules shall apply. ( )

**b.** All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Plumbing Code (UPC) as adopted and amended by the Idaho State Plumbing Board. ( )

**c.** All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. ( )

**d.** Section 406.4. Change the last sentence to: Mechanical gauges used to measure test pressure shall have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. ( )

**e.** Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure shall be required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure shall be required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure shall be no less than six (6) times working pressure. ( )

**f.** Section 406.4.2. The test duration shall not be less than twenty (20) minutes. ( )

**g.** Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system shall not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems. ( )

**02.** **The International Fuel Gas Code, 2003 Edition, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814.** ( )

**006. ADOPTION AND INCORPORATION BY REFERENCE OF PARTS V (MECHANICAL) AND PARTS VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS, 2003 EDITION.**

**01. Parts V (Mechanical) and Parts VI (Fuel Gas) of the International Residential Code for One and Two-Family Dwellings, 2003 Edition, including appendixes "A, B, C, and D", (herein IRC) are adopted and incorporated by reference with the following amendments.** ( )

**a.** Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules shall apply. ( )

**b.** All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Plumbing Code (UPC) as adopted and amended by the Idaho State Plumbing Board. ( )

**c.** All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. ( )

**d.** Section M1401.3. Sizing requirements shall be as established by the authority having jurisdiction. ( )

**e.** Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure shall have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. ( )

**f.** Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure shall be required for systems with a maximum working pressure up to ten (10) inches water column. For

systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure shall be required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure shall be no less than six (6) times working pressure. ( )

**g.** Section G2417.4.2 (406.4.2). The test duration shall not be less than twenty (20) minutes. ( )

**02.** The International Residential Code for One- and Two-Family Dwellings, 2003 Edition, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. ( )

## **IDAPA 08 - DEPARTMENT OF EDUCATION**

### **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-0503**

### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

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

**September 12, 2005  
7:00-9:00 p.m. Mountain Time  
Joe R. William Building  
East Conference Room  
700 W. State St., Boise, Idaho**

Individuals unable to be present in person will have the opportunity to make comments by telephoning into the public hearing (toll free dial in number: 1-877-322-9654; participant code: 857222).

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:

According to Section 33-1258, Idaho Code, the Professional Standards Commission (PSC) may make recommendations for improving professional teacher standards. Periodic development, review, and revision of the current Idaho's teacher standards are necessary to ensure that the standards align with best practices in the teaching profession. The No Child Left Behind Act, State Board highly qualified teacher requirements, and Idaho K-12 student requirements also made such a standards review and revision process critical. For this specific rulemaking promulgation, the Idaho standards for the preparation of teachers of elementary education, English language arts, foreign language, mathematics, and visual-performing arts (art, drama, and music) have been reviewed and revised in "The Idaho Standards for the Initial Certification of Professional School Personnel" manual that is incorporated by reference in this rule. The incorporation by reference section of this rule is being updated to include these changes.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because teams of content area experts reviewed and recommended revisions of the standards to the Professional Standards Commission, which approved the revisions on April 12, 2005.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dr. Michael Stefanic at (208) 332-6884 or Dr. Patricia Toney, (208) 332-6938.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

Dr. Michael P. Stefanic  
Bureau Chief – Certification/Professional Standards and Adult Services  
Administrator – Professional Standards Commission  
Idaho State Department of Education  
650 W. State Street  
PO Box 83720, Boise, Idaho 83720-0027  
Phone: (208) 332-6884 Fax: (208) 334-2094

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0503**

**004. INCORPORATION BY REFERENCE.**

The State Board of Education adopts and incorporates into its rules: (4-5-00)

**01. Incorporated Document.** The Idaho Standards for the Initial Certification of Professional School Personnel as approved ~~on~~ in June 2004<sup>5</sup>. (~~4-6-05~~)(      )

**02. Document Availability.** The Standards are available at the Office of the State Board of Education, 650 W. State St., PO Box 83720, Boise, Idaho, 83720-0037, and can also be accessed electronically at <http://www.idahoboardofed.org>. (3-16-04)

**03. Incorporated Document.** The Standards for Idaho School Buses and Operations as approved on August 13, 2004. (4-6-05)

**04. Document Availability.** The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (7-1-02)

**05. Incorporated Document.** The Idaho Standards for Public School Driver Education and Training as approved on August 13, 2004. (4-6-05)

**06. Document Availability.** The Idaho Standards for Public School Driver Education and Training are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (5-3-03)

**07. Incorporated Document.** The Idaho Standards for Commercial Driving Schools as approved on March 10, 2005. (3-10-05)T

**08. Document Availability.** The Idaho Standards for Commercial Driving Schools is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. (3-14-05)

**IDAPA 08 - DEPARTMENT OF EDUCATION**  
**08.02.02 - RULES GOVERNING UNIFORMITY**  
**DOCKET NO. 08-0202-0504**  
**NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

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

**September 12, 2005**  
**7:00 - 9:00 p.m. Mountain Time**  
**Joe R. William Building**  
**East Conference Room**  
**700 W. State St., Boise, Idaho**

Individuals unable to be present in person will have the opportunity to make comments by telephoning into the public hearing (toll free dial in number: 1-877-322-9654; participant code: 857222).

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:

According to Section 33-1258, Idaho Code, the Professional Standards Commission (PSC) may make recommendations for promoting professional practices and competence of the teaching profession. Reading in the content area has been a discrete course at Idaho's higher education institutions since it became an input requirement (3 credits) in the early 1980s. With the development and State Board and Legislature approval of the "Idaho Standards for the Initial Certification of Professional School Personnel," higher education institutions have been redesigning their programs to meet these performance-based standards. Several higher education institutions include the content of "reading in the content area" in their content area methods courses and other courses, thus integrating it into the methods strategies of the particular content area. This makes a discrete, 3-credit course unnecessary since institutions must meet the Idaho Standards to be state-approved and these standards address reading in the content area.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because higher education institutions recommend that the reading in the content area requirement be met through its integration or incorporation in other required course work. The Professional Standards Commission approved the institutions' recommendation to allow the teacher preparation programs flexibility in how they meet the reading in the content area requirement.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dr. Michael Stefanic at (208) 332-6884 or Dr. Patricia Toney, (208) 332-6938.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

Dr. Michael P. Stefanic  
Bureau Chief – Certification/Professional Standards and Adult Services  
Administrator – Professional Standards Commission  
Department of Education, Bureau of Certification/Professional Standards  
650 W. State Street  
PO Box 83720  
Boise, Idaho 83720-0027  
Phone: (208) 332-6884 Fax: (208) 334-2094

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0504**

**020. STANDARD SECONDARY CERTIFICATE.**

A Standard Secondary Certificate makes an individual eligible to teach in grades six (6) through twelve (12). A Secondary Certificate may be issued to any person with a bachelor's degree from an accredited college or university and who meets the following minimum requirements: (3-16-04)

**01. Professional Education Core Requirements.** (3-16-04)

**a.** A minimum of twenty (20) semester credit hours, or thirty (30) quarter credit hours, in the philosophical, psychological, and methodological foundations, reading in the content area, instructional technology, and ~~in~~ the professional subject matter of secondary education, ~~which must include at least three (3) semester credit hours, or four (4) quarter credit hours, of reading in the content area.~~ (3-16-04)(    )

**b.** The required twenty (20) semester credit hours, or thirty (30) quarter credit hours, must also include at least six (6) semester credit hours, or nine (9) quarter credit hours, of secondary student teaching or two (2) years of satisfactory experience as a teacher in grades six (6) through twelve (12). (3-16-04)

**02. General Education Requirements.** Preparation in at least two (2) fields of secondary teaching: a major subject of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours, and a minor subject of at least twenty (20) semester credit hours, or thirty (30) quarter credit hours. Preparation of not less than forty-five (45) semester credit hours, or sixty-seven (67) quarter credit hours, in a single subject area may be used in lieu of a major and minor field. (3-16-04)

**03. Additional Requirements.** An institutional recommendation from an accredited college or university or verification of two (2) years of teaching experience in grades six (6) through twelve (12). (3-16-04)

**04. Proficiency.** Proficiency in areas noted above is measured by completion of the credit hour requirements provided herein. Additionally, each candidate must have a qualifying score on an approved content area assessment in any area(s) for which the certificate or endorsement(s) will be applied. (3-16-04)

**IDAPA 08 - DEPARTMENT OF EDUCATION**  
**08.02.02 - RULES GOVERNING UNIFORMITY**  
**DOCKET NO. 08-0202-0505**  
**NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

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

**September 12, 2005**  
**7:00 - 9:00 p.m. Mountain Time**  
**Joe R. William Building**  
**East Conference Room**  
**700 W. State St., Boise, Idaho**

Individuals unable to be present in person will have the opportunity to make comments by telephoning into the public hearing (toll free dial in number: 1-877-322-9654; participant code: 857222).

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:

According to Section 33-1258, Idaho Code, the Professional Standards Commission (PSC) may make recommendations for promoting professional practices and competence of the teaching profession. Feedback from teacher preparation standards review teams of K-12 and higher education content area experts confirmed the need to review and revise specific teacher endorsement requirements to ensure the requirements align with Idaho's performance-based teacher preparation standards and the needs of Idaho schools/districts/students. The No Child Left Behind Act, State Board highly qualified teacher requirements, and Idaho K-12 student requirements also made such an endorsement review and revision process critical. Idaho endorsement requirements for teachers of the social studies, the sciences, the visual-performing arts (art, drama, and music), foreign languages, interdisciplinary humanities, and mathematics have been revised. Also it is recommended that American Government and Political Science be merged into one endorsement, Dramatics be re-titled Drama, and several unused endorsements be eliminated (American Studies, Anthropology, Arts and Crafts, Consumer Economics, and Drafting). Finally, it is recommended that there be only one K-12 Mathematics endorsement.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because teams of content area experts, including K-12 teachers and college/university educators, reviewed and recommended revisions to the endorsement requirements and those recommendations were approved by the Professional Standards Commission.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dr. Michael Stefanic at (208) 332-6884 or Dr. Patricia Toney, (208) 332-6938.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.



DATED this 3rd day of August, 2005.

Dr. Michael P. Stefanic  
Bureau Chief – Certification/Professional Standards  
Administrator – Professional Standards Commission  
Department of Education, Bureau of Certification/Professional Standards  
650 W. State, Boise, Idaho 83720-0027  
Phone: (208) 332-6884 / Fax: (208) 334-2094

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0505**

**022. ENDORSEMENTS A - D.**

**01. Agriculture Science and Technology (6-12).** (3-16-04)

**a.** Forty-five (45) semester credit hours including course work in each of the following areas: agriculture education; agriculture mechanics; agriculture business management; soil science; animal science; and plant science. (3-16-04)

**b.** Occupational teacher preparation coursework as provided in Sections 034 through 038. (3-16-04)

**02. American Government /Political Science (6-12).** Twenty (20) semester credit hours, ~~including six (6) semester credit hours in American Government; six (6) semester credit hours in American History; three (3) semester credit hours in Comparative Government; with remaining course work taken in History or Political Science~~ to include: a minimum of six (6) semester credit hours in American Government, a minimum of six (6) semester credit hours in U.S. History Survey, a minimum of three (3) semester credit hours in Comparative Government, and a minimum of three (3) semester credit hours in Modern World History Survey. Remaining course work must be selected from Political Science and History. (3-16-04)( )

~~**03. American Studies (6-12).** Twenty (20) semester credit hours in the area of American Studies. (3-16-04)~~

~~**04. Anthropology (6-12).** Twenty (20) semester credit hours in the area of Anthropology. (3-16-04)~~

~~**053. Art (K-12 or 6-12).** Twenty (20) semester credit hours in the area of Art to include a minimum of nine (9) semester credit hours in: Foundation Art and Design. Additional course work must include at least two (2) Studio Areas and Secondary Arts Methods. To obtain an Art (K-12) endorsement, applicants holding a Secondary Certificate must complete an elementary methods course, and applicants holding a Standard Elementary Certificate must complete a secondary methods course. (3-16-04)( )~~

~~**06. Arts and Crafts (6-12).** Twenty (20) semester credit hours to include coursework in four (4) of the following areas: woodworking; plastics; metal art; graphic art; ceramics; leather work; or drafting. (3-16-04)~~

**074. Bilingual Education (K-12).** Twenty (20) semester credit hours to include six (6) upper division credits in Modern Languages; three (3) semester credit hours in Cultural Diversity in the target language and/or in cross-cultural or multi-cultural course work; seven (7) semester credit hours in English as a Second Language, which shall include three (3) semester credit hours in Methodology and one (1) semester credit hour in Bilingual Practicum or Field Experience, with remaining credit hours in foundations, applied linguistics, testing, or bilingual education. Additionally, no more than five (5) semester credit hours of workshop credit will be accepted for this endorsement.

(3-16-04)

**085. Biological Science (6-12).** Twenty (20) semester credit hours to include at least six (6) semester credit hours of course work in each of the following areas: Botany and Zoology. (3-16-04)

**096. Business Technology Education (6-12).** (3-16-04)

**a.** Twenty (20) semester credit hours to include course work in each of the following areas: Intermediate or Advanced Keyboarding; Accounting; and Business/Office Procedures. (3-16-04)

**b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

**107. Chemistry (6-12).** Twenty (20) semester credit hours in the area of Chemistry. (3-16-04)

**108. Communication (6-12).** Follow one (1) of the following options: (3-16-04)

**a.** Option I: Twenty (20) semester credit hours to include Methods of Teaching Speech/Communications plus course work in at least four (4) of the following areas: Interpersonal Communication/Human Relations; Argumentation/Personal Persuasion; Group Communications; Nonverbal Communication; Public Speaking; and Drama/Theater Arts. (3-16-04)

**b.** Option II: Possess an English endorsement plus at least twelve (12) semester credit hours distributed among the following: Interpersonal Communication/Human Relations, Public Speaking, and Methods of Teaching Speech/Communication. (3-16-04)

**109. Communications/Drama (6-12).** Twenty (20) semester credit hours including a minimum of six (6) credit hours in each of the following areas: Communications and Drama. (3-16-04)

~~**13. Consumer Economics (6-12).**~~ Hold an endorsement in Agricultural Science and Technology; Family and Consumer Sciences; Social Studies; Business Technology Education; or Marketing Technology Education and have at least six (6) semester credit hours in Economics and three (3) semester credit hours in a course designed for the average consumer. (3-16-04)

~~**14. Drafting (6-12).**~~ Twenty (20) semester credit hours in the area of Drafting. (3-16-04)

~~**150. Dramatics (6-12).**~~ Follow one (1) of the following options: (3-16-04)( )

~~**a.** Twenty (20) semester credit hours, including a minimum of sixteen (16) semester credit hours in Drama or Theater Arts and four (4) semester credit hours in Communications. (3-16-04)~~

~~**b.** Possess an endorsement in English plus a minimum of six (6) semester credit hours in Drama or Theater Arts nine (9) semester credit hours including course work in each of the following: Acting, Directing, and Technical Stage Production. (3-16-04)( )~~

**161. Driver Education (6-12).** Two (2) semester credit hours in Basic Driver Education for Teachers and two (2) semester credit hours in any of the following: Advanced Driver Education; Driver Simulation Education; Traffic Engineering; General Safety Education; or Highway Transportation. Additionally, an individual must have three (3) years of satisfactory driving experience immediately prior to endorsement as verified by the Motor Vehicle Division of the State Department of Transportation. (3-16-04)

**023. ENDORSEMENTS E - L.**

**01. Earth Science (6-12).** Twenty (20) semester credit hours including course work in each of the following: Earth Science; Astronomy; and Geology. (3-16-04)( )

**02. Economics (6-12).** Twenty (20) semester credit hours in the area of Economics to include a minimum of three (3) semester credit hours of micro-economics, minimum of three (3) semester credit hours of

macro-economics, and minimum of six (6) semester credit hours of Personal Finance/Consumer Economics/Economics Methods. Remaining semester credit hours must be selected from economics and finance course work in one (1) of more the following areas: Agriculture Science and Technology, Business Education, Economics, Family and Consumer Science, History, American Government/Political Science, or Marketing Education. (3-16-04)( )

**03. Education Media Generalist (K-12).** Twenty (20) semester credit hours in the field of Education Media or Library Science, including a minimum of fifteen (15) credit hours of course work distributed among each of the following: Material Selection/Collection Development; Literature for Youth; Organization/Administration of Educational Materials; Library Automation/Information Technology Research Methods. (3-16-04)

**04. English (6-12).** Twenty (20) semester credit hours, including three (3) semester credit hours in Linguistics/Grammar, three (3) semester credit hours in American Literature, three (3) semester credit hours in English Literature, six (6) semester credit hours in Advanced Composition, excluding the introductory sequence designed to meet general education requirements. Remaining credits must be completed in the English Department, and must include some course work in Writing Methods for Teachers of Secondary Students. (3-16-04)

**05. English as a Second Language (ESL) (K-12).** Twenty (20) semester credit hours to include four (4) semester credit hours in Modern Languages; three (3) semester credit hours in Cultural Diversity; three (3) semester credit hours in ESL Methods; three (3) semester credit hours in Philosophical Foundations, Theory, Testing/ Identification of Limited English Proficient Students OR Applied Linguistics in ESL; one (1) semester credit in ESL Practicum or Field Experience; and three (3) semester credit hours in an ESL related elective. Additionally, no more than five (5) semester credits of workshop will be accepted for this endorsement. (3-16-04)

**06. Family and Consumer Science (6-12).** (3-16-04)

**a.** Thirty (30) semester credit hours to include coursework in each of the following: Child/Human Development; Human/Family Relations; Directed Laboratory Experience in Childcare; Clothing and Textiles, Cultural Dress, Fashion Merchandising, or Design Nutrition; Food Preparation, Food Production, or Culinary Arts; Housing, Interior Design, Home Management, or Equipment; Consumer Economics or Family Resource Management; Introduction to Family Consumer Sciences; and, Integration of Family Consumer Sciences or Family Consumer Science Methods. (3-16-04)

**b.** Occupational Teacher Preparation as provided in Sections 034 through 038. (3-16-04)

**07. Foreign Language (6-12 or K-12).** Twenty (20) semester credit hours with course work in a specific foreign language including Upper Division Foreign Language in two (2) or more of the following areas: Grammar, Conversation, Composition, Culture, and Literature; and course work in Foreign Language Methods. To obtain an endorsement in a specific foreign language (K-12), applicants holding a Secondary Certificate must complete an elementary methods course, and applicants holding a Standard Elementary Certificate must complete a secondary methods course. (3-16-04)( )

**08. Geography (6-12).** Twenty (20) semester credit hours in the area of Geography including minimum of six (6) semester credit hours in Cultural Geography, minimum of six (6) semester credit hours in Physical Geography, and minimum of six (6) semester credit hours in World History Survey. Remaining semester credit hours must be selected from Geography. (3-16-04)( )

**09. Geology (6-12).** Twenty (20) semester credit hours in the area of Geology. (3-16-04)

**10. Gifted and Talented (K-12).** Twenty (20) semester credit hours, to include three (3) semester credits hours in each of the following: Foundations of Gifted and Talented Education; Creative/Critical Thinking Skills for Gifted and Talented Students; Social and Emotional Needs of Gifted and Talented Students; Curriculum and Instruction for Gifted and Talented Students; and Practicum and Program Design for Gifted and Talented Education. (3-16-04)

**11. Health (6-12).** Twenty (20) semester credit hours to include course work in Organization/Administration of a School Health Program; Health Science; Methods of Teaching Health; and a minimum of twelve (12) semester credit hours in at least four (4) of the following areas: Mental Health; Consumer Health; Nutrition;

Human Sexuality; Aging, Death and Dying; Safety and Accident Prevention; Fitness/Wellness; Substance Use and Abuse; Disease; and Community/Environmental Health. (3-16-04)

**12. History (6-12).** Twenty (20) semester credit hours to include ~~at least nine (9) semester credit hours in United States History, and at least three (3) semester credit hours in American Federal Government~~ a minimum of six (6) semester credit hours of U.S. History Survey, minimum of six (6) semester credit hours of World History Survey, minimum of three (3) semester credit hours of American Government/Political Science, and minimum of three (3) semester credit hours of Comparative Government. Remaining course work must be in History ~~or Political Science.~~ (3-16-04)(\_\_\_\_)

**13. Humanities (6-12).** An endorsement in English, ~~or~~ History, Music, Visual Art, Drama, or Foreign Language and twenty (20) semester credit hours, ~~including at least six (6) semester credit hours in each of two (2) of the following: Art; Drama; English; History; Humanities; Music; Foreign Language; and Philosophy.~~ in one of the following areas or ten (10) semester credit hours in each of two (2) of the following areas: Literature, Music, Foreign Language, Humanities Survey, History, Visual Art, Philosophy, Drama, Comparative World Religion, Architecture, and Dance. (3-16-04)(\_\_\_\_)

**14. Journalism (6-12).** Follow one (1) of the following options: (3-16-04)

**a.** Option I: Twenty (20) semester credit hours to include a minimum of sixteen (16) semester credit hours in Journalism and four (4) semester credit hours in English. (3-16-04)

**b.** Option II: Possess an English endorsement with a minimum of six (6) semester credit hours in Journalism. (3-16-04)

**024. ENDORSEMENTS M - Z.**

**01. Marketing Technology Education (6-12).** (3-16-04)

**a.** Twenty (20) semester credit hours to include course work in each of the following areas: Marketing; Management; Economics; Coordination of Cooperative Programs; Merchandising/Retailing; and Curriculum and Materials Marketing, with remaining credit hours in the field of business. (3-16-04)

**b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

**02. Mathematics ~~Basic~~ (6-12).** Twenty (20) semester credit hours in Mathematics including course work in ~~Algebra, Geometry, and Trigonometry.~~ Six (6) semester credit hours of computer programming may be substituted for six (6) semester credits in Mathematics each of the following areas: Calculus (with Trigonometry), Probability and Statistics, Geometry, Linear Algebra, Discrete Mathematics. Statistics course work may be taken from a department other than the mathematics department. (3-16-04)(\_\_\_\_)

~~**03. Mathematics Standard (6-12).** Twenty (20) semester credit hours including course work in Calculus and Analytical Geometry, with remaining course work in Mathematics. Six (6) semester credit hours of computer programming may be substituted for six (6) semester credits in Mathematics. (3-16-04)~~

**043. Music (6-12 or K-12).** Twenty (20) semester credit hours to include course work in the following: Theory and Harmony; Secondary Music Methods/Materials, Music History ~~or Appreciation~~, Conducting; Upper Division Applied Music; and ~~Music Methods/Materials~~ Piano Proficiency (Class Piano or Applied Piano). To obtain a Music K-12 endorsement, applicants holding a Secondary Certificate must complete an elementary music methods course. (3-16-04)(\_\_\_\_)

**054. Natural Science (6-12).** ~~Follow one (1) of the following options:~~ An endorsement in: Biological Science, Physical Science, Physics, Chemistry, or Earth Science. Twenty-four (24) semester credit hours in Biology, Physics, or Chemistry, or thirty-two (32) semester credit hours in Agricultural Science of which the following are required, excluding the endorsement area: (3-16-04)(\_\_\_\_)

**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 Limnology~~ Biology Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Physics, Chemistry, and Earth Science. (3-16-04)(    )

**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 Limnology. A passing score on the Praxis test for Natural Science is required.~~ Physics Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science. (3-16-04)(    )

**c.** Chemistry Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Earth Science. (    )

**d.** Earth Science Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Chemistry. (    )

**e.** Agricultural Science Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science, Physics. (    )

~~06.~~ **Philosophy (6-12).** ~~Twenty (20) semester credit hours in the area of Philosophy.~~ (3-16-04)

~~07.~~ **Physics (6-12).** Twenty (20) semester credit hours in the area of Physics. (3-16-04)

**086.** **Physical Education (PE) (6-12 or K-12).** Twenty (20) semester credit hours to include course work in each of the following areas: Sport Skills; Secondary PE Methods; Student Evaluation in PE; Administration of a PE Program; Health; PE for Special Populations; Exercise Science; Sports Psychology or Sociology; and Movement. To obtain a Physical Education K-12 endorsement, applicants holding a Secondary Certificate must complete an elementary PE methods course. (3-16-04)

~~097.~~ **Physical Education/Health.** (3-16-04)

~~108.~~ **Physical Science (6-12).** Twenty (20) semester credit hours in the area of physical science to include a minimum of eight (8) semester credit hours in each of the following: Chemistry and Physics. (3-16-04)

~~11.~~ **Political Science.** ~~Twenty (20) semester credit hours in the area of Political Science.~~ (3-16-04)

~~1209.~~ **Psychology.** Twenty (20) semester credit hours in the area of Psychology. (3-16-04)

**130.** **Reading (6-12 or K-12).** Twenty (20) semester credit hours in the area of reading including a minimum of fifteen (15) semester credit hours distributed among each of the following areas: Foundations of Reading or Developmental Reading; Reading in the Content Area; Literature for Youth; Psycholinguistics or Language Development; and Corrective/Diagnostic/Remedial Reading. To obtain a Reading K-12 endorsement, applicants holding a Secondary Certificate must complete an elementary methods course. (3-16-04)

**141.** **Social Studies (6-12).** Must have an endorsement in History, ~~Political Science~~ American Government/Political Science, Economics, ~~Anthropology~~, Sociology, Psychology, or Geography plus a minimum of twenty (20) semester credit hours of which the following are required: a minimum of six (6) semester credit hours of general U.S. history survey; a minimum of three (3) semester credit hours of American Federal Government. The remaining semester credit hours must include work from ~~at~~ four (4) of the following areas: World History, Geography, Economics, American Government/Political Science, Anthropology, Sociology, and Psychology. (3-16-04)(    )

**152.** **Sociology (6-12).** Twenty (20) semester credit hours in the area of Sociology. (3-16-04)

**163. Sociology/Anthropology (6-12).** Twenty (20) semester credit hours including a minimum of six (6) semester credit hours in each of the following: Anthropology and Sociology. (3-16-04)

**174. Technology Education (6-12).** (3-16-04)

**a.** Twenty (20) semester credit hours to include course work in each of the following areas: Communication Technology; Computer Applications; Construction Technology; Electronics Technology; Manufacturing Technology; Power, Energy and Transportation; and Principles of Technology. (3-16-04)

**b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

**IDAPA 08 - DEPARTMENT OF EDUCATION**  
**08.02.02 - RULES GOVERNING UNIFORMITY**  
**DOCKET NO. 08-0202-0506**  
**NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 33-1254, Idaho Code.

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

**September 12, 2005**  
**7:00 - 9:00 p.m. Mountain Time**  
**Joe R. William Building**  
**East Conference Room**  
**700 W. State St., Boise, Idaho**

Individuals unable to be present in person will have the opportunity to make comments by telephoning into the public hearing (toll free dial in number: 1-877-322-9654; participant code: 857222).

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:

According to IDAPA 33-1254, the Professional Standards Commission is charged with reviewing the Code of Ethics for Idaho Professional Educators annually to ensure that the Code meets current needs. The Professional Standards Commission recommends that a section titled "Educator Perspective of the Code" (which is not part of the Code) be incorporated into the body of the Code of Ethics for Idaho Professional Educators for clarification and an update of the Code of Ethics. Other proposed changes in the Code of Ethics for Idaho Educators include clarification in language.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Professional Standards Commission and the Idaho Education Association agree that a section titled "Educator Perspective of the Code" (which is not part of the Code) be incorporated into the body of the Code of Ethics for Idaho Professional Educators. Other suggested changes in the Code of Ethics for Idaho Educators include clarification language.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Keith Potter, 332-6887.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

Dr. Michael P. Stefanic  
Bureau Chief – Certification/Professional Standards  
Administrator – Professional Standards Commission

Idaho State Department of Education  
Bureau of Certification/Professional Standards  
650 W. State St.  
PO Box 83720, Boise, Idaho 83720-0027  
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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0506**

**076. CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).**

Believing in the worth and dignity of each human being, the professional educator recognizes the supreme importance of pursuing truth, striving toward excellence, nurturing democratic citizenship and safeguarding the freedom to learn and to teach while guaranteeing equal educational opportunity for all. The professional educator accepts the responsibility to practice the profession according to the highest ethical principles. The Code of Ethics for Idaho Professional Educators symbolizes the commitment of all Idaho educators and provides principles by which to judge conduct. (3-20-04)

**01. Aspirations and Commitments.** (3-20-04)

**a.** The professional educator aspires to stimulate the spirit of inquiry in students and to provide opportunities in the school setting that will help them acquire viable knowledge, skills, and understanding that will meet their needs now and in the future. (3-20-04)

**b.** The professional educator provides an environment that is safe to the cognitive, physical and psychological well-being of students and provides opportunities for each student to move toward the realization of his/her goals and potential as an effective citizen. (~~3-20-04~~)(\_\_\_\_)

**c.** The professional educator, recognizing that students need role models, will act, speak and teach in such a manner as to exemplify nondiscriminatory behavior and encourage respect for other's cultures and beliefs. (3-20-04)

**d.** The professional educator is committed to the public good and will help preserve and promote the principles of democracy. He will provide input to the local school board to assist in the board's mission of developing and implementing sound educational policy, while promoting a climate in which the exercise of professional judgment is encouraged. (~~3-20-04~~)(\_\_\_\_)

**e.** The professional educator believes the quality of services rendered by the education profession directly influences the nation and its citizens. He strives, therefore, to establish and maintain the highest set of professional principles of behavior, to improve educational practice, and to achieve conditions that attract highly qualified persons to the profession. (~~3-20-04~~)(\_\_\_\_)

**f.** The professional educator regards the employment agreement as a pledge to be executed in a manner consistent with the highest ideals of professional service. He believes that sound professional personal relationships with colleagues, governing boards, and community members are built upon integrity, dignity, and mutual respect. The professional educator encourages the practice of the profession only by qualified persons. (~~3-20-04~~)(\_\_\_\_)

**02. Principle I.** A professional educator abides by all federal, state, and local laws and statutes. Unethical conduct may include the conviction of any felony or misdemeanor offense as defined by Section 18-110 and Section 18-111, Idaho Code. All infractions (traffic) as defined by Section 18-113A, Idaho Code, are excluded. (3-20-04)



- 03. Principle II.** A professional educator maintains a professional relationship with all students, both inside and outside the classroom. Unethical conduct includes, but is not limited to: (3-20-04)
- a.** Committing any act of child abuse, including physical or emotional abuse; (3-20-04)
  - b.** Committing any act of cruelty to children or any act of child endangerment; (3-20-04)
  - c.** Committing or soliciting any sexual act from any minor or any student regardless of age; (3-20-04)
  - d.** Committing any act of harassment (*e.g., sexual harassment*) as defined by district policy; ~~(3-20-04)~~(\_\_\_\_)
  - e.** Soliciting, encouraging, or consummating a romantic or inappropriate relationship (whether written, verbal, or physical) with a student, regardless of age; (3-20-04)
  - f.** Using inappropriate language including, but not limited to, swearing and improper sexual comments (e.g. sexual innuendoes or sexual idiomatic phrases); (3-20-04)
  - g.** Taking inappropriate pictures (digital, photographic, or video) of students; (3-20-04)
  - h.** Inappropriate contact with any minor or any student regardless of age using electronic media; ~~and~~ ~~(3-20-04)~~(\_\_\_\_)
  - i.** Furnishing alcohol or illegal or unauthorized drugs to any student or allowing or encouraging a student to consume alcohol or unauthorized drugs except in a medical emergency; ~~and~~ ~~(3-20-04)~~(\_\_\_\_)
  - j.** Conduct that is detrimental to the health or welfare of students. (\_\_\_\_)
- 04. Principle III.** A professional educator refrains from the abuse of alcohol or drugs during the course of professional practice. Unethical conduct includes, but is not limited to: (3-20-04)
- a.** Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming illegal or unauthorized drugs; (3-20-04)
  - b.** Being on school premises or at any school-sponsored activity, home or away, involving students while possessing, using, or consuming alcohol; (3-20-04)
  - c.** Inappropriate or illegal use of prescription medications on school premises or at any school-sponsored events, home or away; ~~and~~ ~~(3-20-04)~~(\_\_\_\_)
  - d.** Inappropriate or illegal use of drugs or alcohol that impairs the individual's ability to function; ~~and~~ ~~(3-20-04)~~(\_\_\_\_)
  - e.** Possession of an illegal drug as defined in Chapter 27, Idaho Code, Uniform Controlled Substances. (3-20-04)
- 05. Principle IV.** A professional educator exemplifies honesty and integrity in the course of professional practice. Unethical conduct includes, but is not limited to: (3-20-04)
- a.** Fraudulently altering or preparing materials for licensure or employment; (3-20-04)
  - b.** Falsifying or deliberately misrepresenting professional qualifications, degrees, academic awards, and related employment history when applying for employment or licensure; (3-20-04)
  - c.** Failure to notify the state at the time of application for licensure of past revocations or suspensions of a certificate or license from another state; (3-20-04)

- d.** Failure to notify the state of past criminal convictions at the time of application for licensure; (3-20-04)
- e.** Falsifying, deliberately misrepresenting, or deliberately omitting information regarding the evaluation of students or personnel, including improper administration of any standardized tests (changing test answers; copying; or teaching identified test items; unauthorized reading of the test to students, etc.); ~~(3-20-04)~~(\_\_\_\_)
- f.** Falsifying, deliberately misrepresenting, or deliberately omitting reasons for absences or leaves; (3-20-04)
- g.** Falsifying, deliberately misrepresenting, or deliberately omitting information submitted in the course of an official inquiry or investigation; and, (3-20-04)
- h.** Falsifying, deliberately misrepresenting, or deliberately omitting material information on an official evaluation of colleagues. (3-20-04)
- 06. Principle V.** A professional educator entrusted with public funds and property honors that trust with a high level of honesty, accuracy, and responsibility. Unethical conduct includes, but is not limited to: (3-20-04)

  - a.** Misuse, or unauthorized use, of public or school-related funds or property; (3-20-04)
  - b.** Failure to account for funds collected from students or parents; (3-20-04)
  - c.** Submission of fraudulent requests for reimbursement of expenses or for pay; (3-20-04)
  - d.** Co-mingling of public or school-related funds in personal bank account(s); (3-20-04)
  - e.** Use of school computers for a private business; (3-20-04)
  - f.** Use of school computers to deliberately view or print pornography; and, (3-20-04)
  - g.** Deliberate use of poor budgeting or accounting practices. (3-20-04)
- 07. Principle VI.** A professional educator maintains integrity with students, colleagues, parents, patrons, or business personnel when accepting gifts, gratuities, favors, and additional compensation. Unethical conduct includes, but is not limited to: (3-20-04)

  - a.** Unauthorized solicitation of students or parents of students to purchase equipment or supplies from the educator who will directly benefit; (3-20-04)
  - b.** Acceptance of gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest; (3-20-04)
  - c.** Tutoring students assigned to the educator for remuneration unless approved by the local board of education; and, (3-20-04)
  - d.** Soliciting, accepting, or receiving a pecuniary benefit greater than fifty dollars (\$50) as defined in Section 18-1359(b), Idaho Code. (3-20-04)
- 08. Principle VII.** A professional educator complies with state and federal laws and local school board policies relating to the confidentiality of student and employee records, unless disclosure is required or permitted by law. Unethical conduct includes, but is not limited to: (3-20-04)

  - a.** Sharing of confidential information concerning student academic and disciplinary records, personal

confidences, health and medical information, family status or income, and assessment or testing results with inappropriate individuals or entities; and (3-20-04)

**b.** Sharing of confidential information about colleagues obtained through employment practices with inappropriate individuals or entities. (3-20-04)

**09. Principle VIII.** A professional educator fulfills all terms and obligations detailed in the contract with the local board of education or education agency for the duration of the contract. Unethical conduct includes, but is not limited to: (3-20-04)

**a.** Abandoning any contract for professional services without the prior written release from the contract by the employing school district or agency; (3-20-04)

**b.** Willfully refusing to perform the services required by a contract; and, (3-20-04)

**c.** Abandonment of classroom or failure to provide appropriate supervision of students at school or school-sponsored activities to ensure the safety and well-being of students. (3-20-04)

**10. Principle IX.** A professional educator reports breaches of the Code of Ethics for Idaho Professional Educators and submits reports as required by Idaho Code. Unethical conduct includes, but is not limited to: (3-20-04)

**a.** Failure to comply with Section 33-1208A, Idaho Code, (reporting requirements and immunity); (3-20-04)

**b.** Failure to comply with Section 16-1619, Idaho Code, (reporting of child abuse, abandonment or neglect); ~~and,~~ (3-20-04)(\_\_\_\_)

**c.** Failure to comply with Section 33-512B, Idaho Code, (Suicidal tendencies and duty to warn); and (\_\_\_\_)

**ed.** Having knowledge of a violation of the Code of Ethics for Idaho Professional Educators and failing to report the violation to an appropriate education official. (3-20-04)

**11. Principle X.** A professional educator ~~demonstrates conduct that follows~~ ensures just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights and responsibilities while following generally recognized professional principles ~~with the right to exercise academic freedom~~. Unethical conduct includes, but is not limited to: (3-20-04)(\_\_\_\_)

**a.** Any conduct that seriously impairs the Certificate holder's ability to teach or perform his professional duties; (3-20-04)

**b.** ~~Conduct that is detrimental to the health, welfare, discipline, or morals of students~~ Committing any act of harassment toward a colleague; (3-20-04)(\_\_\_\_)

**c.** Conduct ~~which~~ that is offensive to the ordinary dignity, decency, and morality of others; (3-20-04)(\_\_\_\_)

**d.** Failure to cooperate with the Professional Standards Commission in inquiries, investigations, or hearings; (3-20-04)

**e.** Using institutional privileges for the promotion of political candidates or for political activities, except for local, state or national education association elections; ~~and,~~ (3-20-04)(\_\_\_\_)

**f.** Deliberately falsifying information presented to students; (3-20-04)(\_\_\_\_)

**g.** Willfully interfering with the free participation of colleagues in professional associations; and

- ( )
- h. Taking inappropriate pictures (digital, photographic or video) of colleagues. ( )

**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. (3-20-04)
- 02. Allegation.** A purported violation of the Code of Ethics for Idaho Professional Educators or Idaho Code. (3-20-04)
- 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). (3-20-04)
- 04. Certificate Denial.** The refusal of the state to grant a certificate for an initial or reinstatement application. (3-20-04)
- 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. (3-20-04)
- 06. Complaint.** A signed document defining the allegation that states the specific ground or grounds for revocation, suspension, denial, place reasonable conditions on a certificate or issuance of a letter of reprimand (Section 33-1209(1), Idaho Code). The State Department of Education may initiate a complaint. (~~3-20-04~~)( )
- 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). (3-20-04)
- 08. Contract.** Any signed agreement between the school district and a certificated educator pursuant to Section 33-513(1), Idaho Code. (3-20-04)
- 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. (3-20-04)
- 10. Educator.** A person who holds or applies for an Idaho Certificate (Section 33-1001(16) and Section 33-1201, Idaho Code). (3-20-04)
- 121. 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). (3-20-04)
- 12. Executive Ethics Committee.** A decision-making body comprised of members of the Professional Standards Commission, including the chair and/or 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. (~~3-20-04~~)( )
- 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. (3-20-04)
- 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. (3-20-04)

- 15. Investigation.** The process of gathering factual information concerning a valid, written complaint in preparation for review by the Professional Standards Commission ~~Executive~~ Ethics Committee, or following review by the ~~Executive~~ Ethics Committee at the request of the deputy attorney general assigned to the Department of Education. (3-20-04)(\_\_\_\_)
- 16. Minor.** Any individual who is under eighteen (18) years of age. (3-20-04)
- 17. Not-Sufficient Grounds.** A determination by the ~~Executive~~ Ethics Committee that there is not-sufficient evidence to take action against an educator's certificate. (3-20-04)(\_\_\_\_)
- 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. (3-20-04)
- 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. (3-20-04)
- 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. (3-20-04)
- 21. Revocation.** The invalidation of any Certificate held by the educator. (3-20-04)
- 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. (3-20-04)
- 23. Student.** Any individual enrolled in any Idaho public or private school from preschool through grade 12. (3-20-04)
- 24. Sufficient Grounds.** A determination by the Executive Committee that sufficient evidence exists to issue an Administrative Complaint. (3-20-04)

**IDAPA 08 - DEPARTMENT OF EDUCATION**  
**08.02.02 - RULES GOVERNING UNIFORMITY**  
**DOCKET NO. 08-0202-0507**  
**NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

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

**September 12, 2005**  
**7:00 - 9:00 p.m. Mountain Time**  
**Joe R. William Building**  
**East Conference Room**  
**700 W. State St., Boise, Idaho**

Individuals unable to be present in person will have the opportunity to make comments by telephoning into the public hearing (toll free dial in number: 1-877-322-9654; participant code: 857222).

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:

According to Section 33-1258, Idaho Code, the Professional Standards Commission (PSC) may make recommendations for promoting the professional practices and competence of the teaching profession. Idaho school districts with high school ROTC programs expressed concerns to the Professional Standards Commission (PSC) about the highly qualified status of their ROTC instructors. After a careful review of the armed forces rigorous requirements for their instructors, the PSC recommends that individuals who have completed an official armed forces training program and have provided notarized copies of their certificates of completion be considered highly qualified to teach high school ROTC courses.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposal was initiated by the Idaho school districts that have ROTC programs in the high schools and approved but the Professional Standards Commission.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dr. Michael Stefanic at (208) 332-6884 or Larry Norton (208) 332-6885.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

Dr. Michael P. Stefanic  
Bureau Chief – Certification/Professional Standards and Adult Services  
Administrator – Professional Standards Commission  
Idaho State Department of Education  
650 W. State Street  
PO Box 83720, Boise, Idaho 83720-0027  
Phone: (208) 332-6884 / Fax: (208) 334-2094

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0507**

**031. ROTC INSTRUCTORS.**

**01. List of Names.** Each school district with an ROTC program shall provide the State Department of Education with a list of the names of those individuals who have completed an official armed forces training program to qualify as ROTC instructors in high schools. ( )

**02. Notarized Copy.** Each school district with an ROTC program shall provide the State Department of Education with a notarized copy of their certificate(s) of completion. ( )

**03. Authorization Letter.** Upon receiving the items identified in Subsections 031.01 and 031.02, the State Department of Education shall issue a letter authorizing these individuals as ROTC instructors. ( )

**~~032.~~ -- 033. (RESERVED).**

**IDAPA 08 - DEPARTMENT OF EDUCATION**  
**08.02.02 - RULES GOVERNING UNIFORMITY**  
**DOCKET NO. 08-0202-0508**  
**NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

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

**September 12, 2005**  
**7:00 - 9:00 p.m. Mountain Time**  
**Joe R. William Building**  
**East Conference Room**  
**700 W. State St., Boise, Idaho**

Individuals unable to be present in person will have the opportunity to make comments by telephoning into the public hearing (toll free dial in number: 1-877-322-9654; participant code: 857222).

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:

According to Section 33-1258, Idaho Code, the Professional Standards Commission (PSC) may make recommendations for Idaho's special education programs. Programs are divided into regular classes, resource rooms, self-contained classrooms, residential schools, etc. The endorsement areas proposed for elimination are not specifically required for any one of the special education program assignments. The vast majority of special education classrooms are non-categorical; therefore, school district and student needs are best served through the Generalist K-12 Endorsement. Additionally, the Hearing Impaired and Visually Impaired Endorsements needed to be aligned with the Idaho Standards for Teachers of the Visually and Hearing Impaired to ensure teachers meet the necessary requirements. Due to school districts' misunderstanding of the positions of Consulting and Supervisors/ Coordinators of Special Education, definitions were added to clarify the roles these teachers play in schools and districts. Finally, the PSC condensed the text of the rule to make it more precise and clearer.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because teams of special education experts from K-12 schools and higher education reviewed and recommended revisions of the endorsement requirements to the Professional Standards Commission, which approved the revisions on April 12, 2005.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Russ Hammond at (208) 332-6919 or Dr. Patricia Toney, (208) 332-6938.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.



Dr. Michael P. Stefanic  
Bureau Chief – Certification/Professional Standards and Adult Services  
Administrator – Professional Standards Commission  
Idaho State Department of Education  
650 W. State Street  
PO Box 83720  
Boise, Idaho 83720-0027  
Phone: (208) 332-6884 Fax: (208) 334-2094

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-0508**

**028. EXCEPTIONAL CHILD CERTIFICATE.**

Holders of this certificate work with children who have been identified as having an educational impairment. (3-16-04)

**01. Generalist Endorsement (K-12).** The Generalist K-12 endorsement is non-categorical and allows one (1) to teach in any K-12 special education setting. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years for renewal. Regardless of prior special education experience, all initial applicants must provide an institutional recommendation that an approved special education program has been completed. To be eligible for an Exceptional Child Certificate with a Generalist K-12 endorsement, a candidate must have satisfied the following requirements: (3-16-04)

- a. Completion of a baccalaureate degree from an accredited college or university. (3-16-04)
- b. Completion, in an Idaho college or university, of a program in elementary, secondary, or special education currently approved by the Idaho State Board of Education, or completion, in an out-of-state college or university, of a program in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed. (3-16-04)
- c. Completion of thirty (30) semester credit hours in special education, or closely related areas, as part of an approved special education program. (3-16-04)
- d. Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. (3-16-04)

**02. Hearing Impairment Endorsement (K-12).** Completion of a minimum of thirty (30) semester credit hours in the area of hearing impairment. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Hearing Impaired endorsement, a candidate must have satisfied the following requirements: (~~3-16-04~~)( )

- a. Completion of a baccalaureate degree from an accredited college or university; ( )
- b. Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or ( )
- c. Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; ( )
- d. Completion of a program of a minimum of thirty (30) semester credit hours in the area of Hearing

Impairment. Must receive an institutional recommendation specific to this endorsement from an accredited college or university. ( )

**03. Visual Impairment Endorsement (K-12).** Completion of a program of a minimum of thirty (30) semester credit hours in the area of visual impairment. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Visually Impaired endorsement, a candidate must have satisfied the following requirements: (3-16-04)( )

**a.** Completion of a baccalaureate degree from an accredited college or university; ( )

**b.** Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or ( )

**c.** Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; ( )

**d.** Completion of a program of a minimum of thirty (30) semester credit hours in the area of Visual Impairment. Must receive an institutional recommendation specific to this endorsement from an accredited college or university. ( )

~~**04. Seriously Emotionally Disturbed (K-12).** Completion of a program of a minimum of thirty (30) semester credit hours in the area of seriously emotionally disturbed. An institutional recommendation specific to this endorsement is required.~~ (3-16-04)

~~**05. Severe Retardation (K-12).** Completion of a program of a minimum of thirty (30) semester credit hours in the area of severe retardation. An institutional recommendation specific to this endorsement is required.~~ (3-16-04)

~~**06. Multiple Impairment (K-12).** Completion of a program of a minimum of thirty (30) semester credit hours in the area of multiple impairment. An institutional recommendation specific to this endorsement is required.~~ (3-16-04)

~~**07. Physical Impairment (K-12).** Completion of a program of a minimum of thirty (30) semester credit hours in the area of physical impairment. An institutional recommendation specific to this endorsement is required.~~ (3-16-04)

## 029. CONSULTING TEACHER ENDORSEMENT.

**01. Technical Assistance to Teachers.** Consulting teachers provide technical assistance to teachers and other staff in the school district with regard to the selection and implementation of appropriate teaching materials, instructional strategies, and procedures to improve the educational outcomes for students with exceptional needs. They may also provide direct intervention for students with significant needs. ( )

**02. Eligibility for a Consulting Teacher Endorsement.** To be eligible for a Consulting Teacher endorsement on the Standard Exceptional Child Certificate, the Early Childhood /Early Childhood Special Education Blended Certificate (Birth-Grade 3), the Standard Elementary Certificate or the Standard Secondary Teaching Certificate, a candidate must have satisfied the following requirements: (3-16-04)

~~**01a.** Education requirements. Qualify for or hold a Standard Exceptional Child Certificate and qualify for or hold a Standard Elementary Certificate, Standard Secondary Certificate, or Early Childhood/Early Childhood Special Education Blended Certificate (Birth-Grade 3). Plus ~~Completion~~, in an accredited college or university, of a master's degree or an approved fifth year program as defined by the Idaho State Board of Education, and have demonstrated competencies in the following areas: Assessment of learning behaviors; Individualization of instructional programs based on educational diagnosis; Behavioral and/or classroom management techniques; Program implementation and supervision; Knowledge in use of current methods, materials and resources available and management and operation of media centers; Ability in identifying and utilizing community or agency resources~~

and support services; and Counseling skills and guidance of professional staff. (~~3-16-04~~)( )

**02b.** Experience. Completion of a minimum of three (3) years' teaching experience, at least two (2) years of which must be in a special education classroom setting. (3-16-04)

**030. SUPERVISOR/COORDINATOR OF SPECIAL EDUCATION ENDORSEMENT.**

**01. Special Education Support.** Supervisors/coordinators of special education support the district administrative team in ensuring that district practice is in compliance with the requirements of the Individuals with Education Disabilities Act. The assigned duties may include the evaluation of related services staff; supervision of the operations of special education programs within a school district; technical assistance and training to district staff and parents; assistance with student placement decisions; and representation for the school district regarding special education matters with other agencies and with the State Department of Education. ( )

**02. Endorsement.** To be eligible for this endorsement on the Standard Exceptional Child Certificate or the Pupil Personnel Certificate endorsed for School Psychologist, Speech-Language Pathologist or Social Worker, a candidate must complete a master's degree program; have verification of a minimum of three (3) years of experience in a special education setting; and obtain college or university verification of demonstrated competencies in special education administration, supervision of instruction and counseling parents of exceptional children. (~~3-16-04~~)( )

## **IDAPA 08 - DEPARTMENT OF EDUCATION**

### **08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0504**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-118 and 33-118A, 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 September 21, 2005.

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:

According to IDAPA 08.02.03.128.01, the State Board of Education currently adopts curricular materials on a five (5) year adoption cycle for the following subject areas: reading, English, spelling, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, handwriting, literature, and driver education.

The purpose of amending 08.02.03.128.01: Curricular Materials Selection is to extend to a six (6) year cycle Idaho's adoption cycle so that it aligns with the adoption cycles of larger states. This would provide Idaho teachers and students with the most current publications of curricular materials. Fifteen (15) of the twenty-two (22) states that adopt curricular materials adopt on a six (6) year adoption cycle. It is also recommended that limited English proficiency be added to the listing of adoption subject areas because of the addition of English Language Proficiency Standards to the Idaho Student Achievement Language Arts/Communication Standards in April 2005.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rule changes are the culmination of analysis of data from other textbook adoption states and publishing companies as to the importance of providing K-12 students access to the most current curricular materials.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Val Fenske, (208) 332-6967.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 28th day of July, 2005.

Tom Farley, Bureau Chief  
Bureau of Accountability, School Choice, and Educational Improvement  
Department of Education, Bureau of Certification/Professional Standards  
650 W. State Street  
PO Box 83720, Boise, Idaho 83720-0027  
Phone: (208) 332-6890 Fax: (208) 426-0104

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0504

**128. CURRICULAR MATERIALS SELECTION (SECTIONS 33-118; 33-118A, IDAHO CODE).**

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. The membership of the committee will include one (1) representative from each of the state's institutions of higher education (Boise State University, Idaho State University, Lewis-Clark State College, and University of Idaho); two (2) Idaho public school administrators; two (2) Idaho public school elementary classroom teachers; two (2) Idaho public school secondary classroom teachers; one (1) person who is not a public school educator nor a public school trustee, one (1) person (parent, teacher, or administrator) representing Idaho's private/parochial schools, who will not be a public school educator or trustee; one (1) public school trustee; three (3) parents and one (1) curriculum consultant from the Division of Instruction of the State Department of Education and one (1) from the Division of Vocational Education whose appointment will be for one (1) year. The Executive Secretary will be an employee of the State Department of Education and will be a voting member of the committee.

(3-20-04)

**01. Subject Areas.** Curricular materials are adopted by the State Board of Education for a period of ~~five~~ six (56) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, handwriting, literature, driver education, limited English proficiency.

~~(4-5-00)~~( )

**02. Multiple Adoptions are Made in Each Subject Area.**

(4-5-00)

**03. Bids.** Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption.

(4-5-00)

**04. Depository.** The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option.

(4-5-00)

**05. Local Policies.** School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee.

(4-5-00)

**IDAPA 08 - DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0505**

**NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

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

**September 13, 2005**  
**7:00-9:00 p.m.**  
**Coeur d'Alene Inn**  
**& Conference Center**  
**Coeur d'Alene, ID**

**September 14, 2005**  
**7:00-9:00 p.m.**  
**LCSC William Conference Center**  
**Lewiston, ID**

**September 15, 2005**  
**7:00-9:00 p.m.**  
**Holiday Inn - Airport**  
**3300 S. Vista Ave.**  
**Boise, ID**

**September 20, 2005**  
**7:00-9:00 p.m.**  
**Shilo Inn & Conference Center**  
**Idaho Falls, ID**

**September 21, 2005**  
**7:00-9:00 p.m.**  
**ISU Pond Student Union Building**  
**Pocatello, ID**

**September 22, 2005**  
**7:00-9:00 p.m.**  
**CSI Herrett Center**  
**Twin Falls, ID**

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:

According to Section 33-118 Idaho Code, the State Board of Education is responsible for prescribing the minimum courses to be taught in all public elementary and secondary schools. Since the elimination of Idaho's physical education graduation requirement in 1997, many high school physical education programs have been changed or eliminated. At the elementary level established recommendations and guidelines regarding the amount of time and the type of instruction have been set aside or limited. Idaho physical educators are concerned with the trend toward obesity and physical inactivity among K-12 students. To combat this trend, the Idaho State Board of Education approved the adoption of the Physical Education Standards guidelines for Idaho's K-12 students.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased by this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: There will be no additional (increase in general funds) for the State Department of Education. There will be an increase in school districts' costs because of the need to hire additional staff. The expected cost will be \$26,800,000 over a five-year phase-in period (year 1 costs for elementary schools: \$11,700,000; year 2/3 costs for junior high/middle schools: \$10,340,000; year 4/5 costs for high schools: \$4,800,000).

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because Idaho physical education educators, the State Department of Education, and the Idaho Association for Health, Physical Education, Recreation, and Dance (IAHPERD) developed the recommendations for physical education requirements.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Barbara Eisenbarth, (208) 332-6950.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 28th day of July, 2005.

Tom Farley, Bureau Chief  
Bureau of Accountability, School Choice, and Educational Improvement  
Department of Education, Bureau of Certification/Professional Standards  
650 W. State Street  
PO Box 83720, Boise, Idaho 83720-0027  
Phone: (208) 332-6890 Fax: (208) 426-0104

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0505**

**103. CORE OF INSTRUCTION GRADES 1-12.**

**01. Instruction.** Instruction is inclusive of subject matter, content and course offerings. Patterns of instructional organization are a local school district option. Schools will assure students meet locally developed standards with the state standards as a minimum.\* (\*This includes special instruction that allows limited English proficient students to participate successfully in all aspects of the school's curriculum and keep up with other students in the regular education program. It also includes special learning opportunities for accelerated, learning disabled students and students with other disabilities.) (4-5-00)

**02. Instruction Courses.** At appropriate grade levels, instruction will include but not be limited to the following: (4-5-00)

**a.** Language Arts and Communication will include instruction in reading, writing, English, literature, technological applications, spelling, speech and listening. (4-1-97)

**b.** Mathematics will include instruction in addition, subtraction, multiplication, division, percentages, mathematical reasoning and probability. (4-1-97)

**c.** Science will include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (4-1-97)

**d.** Social Studies will include instruction in history, government, geography, economics, current world affairs, citizenship, and sociology. (4-1-97)

**e.** Physical Education will include instruction in locomotor and non-locomotor skills, low organized games, team sports/strategies, fitness, and lifetime sports and activities. ( )

**104. OTHER REQUIRED INSTRUCTION.**

Other required instruction for all students and other required offerings of the school are: (4-1-97)

**01. Elementary Schools (Grades 1-6).** (4-1-97)

**a.** The following section outlines other information required for all students, as well as other required offerings of the school:

Fine Arts (art and music)

Health (wellness)

Physical Education (fitness) - 150 minutes/week (~~4-1-97~~)( )

**b.** Additional instructional options as determined by the local school district. For example:

Languages other than English  
Career Awareness (4-1-97)

**02. Middle Schools/Junior High Schools.** No later than the end of Grade eight (8) all students will develop parent-approved student learning plans for their high school and post-high school options. The learning plan will be developed by students and parents or guardians with advice and recommendation from school personnel. It will be reviewed annually and may be revised at any time. The purpose of a parent-approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. A student learning plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the district's graduation standards. The school district will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (4-1-97)

- a. Other required instruction for all students:
  - Health (wellness)
  - Physical Education (fitness) - 4 credits (~~4-1-97~~)(    )
- b. Other required offerings of the school:
  - Family and Consumer Science
  - Fine & Performing Arts
  - Vocational-Technical Education
  - Advisory Period (middle school only, encourage in junior high school)
  - Exploratory (middle school only) (4-1-97)
- c. Additional instructional options as determined by the local school district. For example:
  - Languages other than English (4-1-97)

**03. High Schools (Grades 9-12).** Students will maintain a parent-approved student learning plan for their high school and post-high school options. The learning plan will be developed by students and parents or guardians with advice and recommendation from school personnel. It will be reviewed annually and may be revised at any time. The purpose of a parent-approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. A student learning plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the district's graduation standards. The school district will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (4-1-97)

- a. Other required instructional offerings of the school. Each student must complete credit and achievement standards in at least two (2) of the following areas of instructional offerings:
  - ~~Physical Education (fitness)~~
  - Humanities
  - Vocational-Technical Education (including work-based learning)
  - Family and Consumer Science
  - Fine and Performing Arts
  - Languages other than English (may include indigenous languages or sign language) (~~3-30-01~~)(    )
- b. Additional instructional options as determined by the local school district. For example:
  - Journalism (4-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**



**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. (3-20-04)

**01. Secondary Language Arts and Communication.** (Nine (9) credits required with instruction in communications including oral communication and technological applications.) Includes four (4) years of instruction in English, each year will consist of language study, composition, and literature. A course in speech or a course in debate will fulfill one (1) credit of the nine (9) credit requirement. (7-1-00)

**02. Mathematics and Science.** (Eight (8) credits required) a minimum of four (4) credits in math and four (4) credits in science, two (2) of which will be laboratory sciences. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. Secondary sciences will include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (7-1-00)

**03. Social Studies.** (Five (5) credits required), including government (two (2) credits), U.S. history (two (2) credits), and economics (one (1) credit). Current world affairs and geography will be integrated into all social studies instruction. Courses such as geography, sociology, world affairs and world history may be offered as electives, not to be counted as a social studies requirement. (7-1-00)

**04. Humanities.** (Two (2) credits required). A course in interdisciplinary humanities, visual and performing arts, or foreign language. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course syllabus is approved by the State Department of Education as being aligned with the Humanities Standards. (5-3-03)

**05. Health/Wellness.** (One (1) credit required). A course focusing on positive health habits. (7-1-00)

**06. Physical Education.** (Two (2) credits required). A course focusing on lifetime activities, such as tennis, golf, biking, rollerblading, bowling, fishing, hiking, etc. ( )

**067. 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. (3-20-04)

**a.** Class of 2006. (3-20-04)

**i.** The student took the ISAT and was within six (6) Rasch Units (RIT points) of proficiency; (3-20-04)

**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; (3-20-04)

**iii.** The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (3-20-04)

**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; (3-20-04)

**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 (3-20-04)

**vi.** The student may appeal for another measure approved by the local school board as outlined in

- Subsection 105.03. (3-20-04)
- b.** Class of 2007. (3-20-04)

    - i. The student took the ISAT and was within three (3) RIT points of proficiency; (3-20-04)
    - ii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (3-20-04)
    - 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; (3-20-04)
    - 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 (3-20-04)
    - v. The student may appeal for another measure approved by the local school board as outlined in Subsection 105.03. (3-20-04)
  - c.** Class of 2008 and Subsequent Classes. (3-20-04)

    - 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 (3-20-04)
    - ii. The student may appeal for another measure approved by the local school board as outlined in Subsection 105.03. (3-20-04)

**IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

**09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL BUREAU**

**DOCKET NO. 09-0104-0502**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 September 21, 2005.

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

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

The proposed change to IDAPA 09.01.04.40 will remove the provision allowing offset to occur on overpayments that resulted from a fraud determination making the rule consistent with the provisions of Section 72-1366(12), Idaho Code. The change is necessary due to the change in eligibility criteria contained in Section 72-1366(12), Idaho Code, which makes fraud claimants ineligible to claim UI benefits. Without the change to this rule, there would be an inconsistency between the eligibility criteria and the permitted recovery mechanisms.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is in response to legislative changes to governing law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

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 September 28, 2005.

DATED this 7th day of September, 2005.

Don Arnold  
Tax & Benefit Control Bureau Chief  
Department of Commerce and Labor  
317 W. Main Street, Boise, ID 83735  
332-3570 x 3258 / 334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0104-0502

**040. RECOVERIES.**

Unless the overpayment resulted from a determination that the claimant willfully made a false statement or willfully failed to report a material fact, ~~Overpayments~~ shall be deducted from any future benefits payable. Ref. Secs. 72-1369 and 72-1366, Idaho Code. ~~(3-19-99)~~(7-1-05)T

**IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

**09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL BUREAU**

**DOCKET NO. 09-0104-0503**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 September 21, 2005.

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

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

Definitions are being added at IDAPA 09.01.04.010 to allow the phrases "fraud overpayment" and "non-fraud overpayment" to be used in Department documents and to provide for an automatic write-off of de minimus overpayments. IDAPA 09.01.04.041 sets forth the manner in which payments for overpayments will be applied by the Department. IDAPA 09.01.04.041 clarifies for claimants how payments made on overpayments that have the new penalties and/or accrued interest contained in Section 72-1369, Idaho Code, assessed against them are going to be applied. If the rule is not promulgated, claimants will not know how their payments are being applied.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is in response to legislative changes to governing law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

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 September 28, 2005.

DATED this 7th day of September, 2005.

Don Arnold  
Tax & Benefit Control Bureau Chief  
Department of Commerce and Labor  
317 W. Main Street, Boise, ID 83735  
332-3570 x 3258 / 334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0104-0503

**010. DEFINITIONS.**

These terms shall have the following meanings when used in these rules, in interpretations, in forms, and in other official documents issued by the Department of Commerce and Labor. (7-1-05)T

**01. Tolerance Amount.** A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with the recovery of overpayments and at the discretion of the Director, no delinquency or credit will be issued or carried on the books for overpayments for this amount or less. Ref. Sec. 72-1369, Idaho Code. (7-1-05)T

**02. Fraud Overpayment.** Is defined as an established overpayment resulting from a determination that the claimant willfully made a false statement or willfully failed to report a material fact in order to obtain benefits. Ref. Sec. 72-1369, Idaho Code. (7-1-05)T

**03. Nonfraud Overpayment.** Is defined as any established overpayment other than an overpayment resulting from a determination that a claimant made a false statement or willfully failed to report a material fact in order to obtain benefits. Ref. Sec. 72-1369, Idaho Code. (7-1-05)T

**0101. MATERIALITY, FRAUD DETERMINATIONS.**

For purposes of Idaho Code Section 72-1366(12), a fact is material if it is relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Sec. 72-1366, Idaho Code. (3-19-99)

**0102. -- 039. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**041. PARTIAL PAYMENTS OF AMOUNTS OWED THE DEPARTMENT.**

Upon the Department's receipt of a partial payment of an overpayment or overpayments of unemployment insurance benefits and accrued interest and penalties thereon, the Department shall, unless other arrangements have been made with the debtor and approved by the Department, apply the partial payment to the amounts owed as follows: (7-1-05)T

**01. Interest.** The partial payment shall be applied first to any accrued interest of the amounts due, starting with the oldest accrued interest; (7-1-05)T

**02. Penalties.** After any accrued interest has been paid in full, the partial payment shall be applied next to any assessed penalties, starting with the oldest assessed penalty; (7-1-05)T

**03. Fraud Overpayments.** After all accrued interest and assessed penalties have been paid in full, the partial payment shall be applied next to any fraud overpayments due, starting with the oldest fraud overpayment; and (7-1-05)T

**04. Nonfraud Overpayments.** After all fraud overpayments have been paid in full, the partial payment shall be applied next to any nonfraud overpayments, starting with the oldest nonfraud overpayment. Ref. Sec. 72-1369, Idaho Code. (7-1-05)T

**0402. -- 049. (RESERVED).**

**IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

**09.01.06 - RULES OF THE APPEALS BUREAU**

**DOCKET NO. 09-0106-0501**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 September 21, 2005.

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

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

IDAPA 09.01.06.026.13 would be amended to provide that evidence that is irrelevant, unduly repetitious, or privileged may be excluded from appeal hearings. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: All parties to hearings at the department's Appeals Bureau would benefit from a rule clearly setting out the evidentiary standard that applies to the hearings. The standard may now be found in case law, but it is difficult for parties who do not have attorneys to obtain this information.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This is a federally funded program and there is no financial impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being amended to clarify the evidentiary standard that applies to hearings.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Joe Karpach, Appeals Bureau Chief, (208) 332-3570 ext. 3572.

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 September 28, 2005.

DATED this 3rd day of August, 2005.

Joe Karpach  
Appeals Bureau, Chief  
Department of Commerce and Labor  
317 W. Main Street, Boise, ID 83735  
(208) 332-3570 ext. 3572 / (208) 334-6440 fax

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0106-0501**

**026. CONDUCT OF HEARING.**

Upon request for appeal, a hearing shall be set and written notice of the time and place of hearing shall be mailed to each interested party not less than seven (7) days prior to the hearing date. (2-25-94)

**01. Telephone Hearings.** Hearings will be held by telephone unless, in the sole discretion of the appeals examiner, a personal hearing should be set. In deciding the manner in which to conduct the hearing, the appeals examiner shall consider factors, including but not limited to the desires of the parties, possible delay and expense, the burden of proof, the complexity of the issues, and the number and location of witnesses. (3-19-99)

**02. Continuance.** The appeals examiner may postpone or continue a hearing for good cause on the examiner's own motion or that of any party, before a hearing is concluded. The appeals examiner may order the dismissal of an appeal for good cause, such as abandonment of the appeal. (3-19-99)

**03. Rehearing.** An application for rehearing shall be in writing and filed in person or postmarked within ten (10) days after the appeals examiner's decision is served. (3-19-99)

**04. No Appearance Hearings.** If no party appears to present additional evidence, a decision will then be based on the available evidence. (2-25-94)

**05. Exhibits and Recordings.** The exhibits and tape recordings from a hearing may be destroyed, reused, or otherwise disposed of after the expiration of the time period for appeal from the decisions of the appeals examiner. (3-19-99)

**06. Subpoenas.** After determining that a subpoena of a witness or records is necessary and reasonable, the appeals examiner shall issue the subpoena, which may be served by mail or in person. (3-19-99)

**07. Failure to Respond to Subpoena.** If a person fails to respond to a subpoena issued by mail, the appeals examiner will proceed with the scheduled hearing and determine, after hearing the available testimony, whether the subpoena is still necessary and reasonable. If so, the hearing will be continued and a second subpoena will be issued and personally served. (3-19-99)

**08. Witness Fees.** Individuals who attend hearings before the appeals examiner as subpoenaed witnesses, not parties, shall be entitled to receive a fee of seven dollars and fifty cents (\$7.50) for each day or portion thereof for attendance. In no case shall a witness be paid more than seven dollars and fifty cents (\$7.50) for any one (1) day. Subpoenaed witnesses shall also be entitled to mileage expense at the current allowable mileage reimbursement rate as determined by the Idaho State Board of Examiners. For appeals under the Employment Security Law, such witness fees and mileage expenses shall be paid from the Employment Security Administration fund. Under no circumstances shall interested parties to a hearing be granted witness fees or mileage expenses. Mileage fees are not allowed for vicinity travel. (4-5-00)

**09. Undecided Issues.** When it is apparent that there is no prior ruling on an issue which must be decided under the Act, the appeals examiner may hear and decide the issue. (3-19-99)

**10. Type of Hearing.** The proceeding before an appeals examiner will be a hearing "de novo" or original hearing and not solely a review proceeding. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**11. Role of Appeals Examiner.** The appeals examiner will function as a fact finder and not solely as a judge. The appeals examiner will have the responsibility of developing all the evidence that is reasonably available. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**12. Order of Witnesses.** The appeals examiner will direct the order of witnesses and develop evidence in a logical and orderly manner to move the hearing along as expeditiously as possible. Therefore, as a general rule,



the party who bears the burden of proof will be called to testify first. The appeals examiner will exercise reasonable discretion in directing the order, which must be flexible and dependent upon the particular circumstances of each case and which party has the most information. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code.

(4-5-00)

**13. ~~Exclusion of Irrelevant Testimony Evidence.~~** The appeals examiner ~~will control the undue extension of the hearing by excluding repetitious or irrelevant testimony~~ may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of this state. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ~~(4-5-00)(7-1-05)T~~

**14. Disruptive Individuals.** The appeals examiner may exclude disruptive individuals from the hearing or may postpone the hearing if the integrity of the proceedings is being compromised. If an interested party is excluded, he will be provided a copy of the tape recording of the proceedings and given an opportunity to submit written evidence and argument prior to the issuance of the decision and the opposing party will be given an opportunity to respond. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**15. Challenge of General Knowledge.** If judicially cognizable facts or general, technical, or scientific facts within the appeals examiner's specialized knowledge are used in the decision, the parties will be given an opportunity to challenge them either at the time of the hearing or prior to or at the time of the issuance of the decision. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**16. Closing Arguments.** Closing arguments including response in an appeals hearing will be limited to a total of five (5) minutes for each party unless the appeals examiner grants an exception. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

**09.01.06 - RULES OF THE APPEALS BUREAU**

**DOCKET NO. 09-0106-0502**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-4702, 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 September 21, 2005.

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

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

IDAPA 09.01.06.026.04 would be amended to provide that if no party appears to present additional evidence at an appeal hearing, the examiner may make a decision on the existing record, and specifying what that record would include.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: This is a federally funded program and there is no financial impact on the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because The agency determined it was not feasible because of the nature of the change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joe Karpach, Appeals Bureau Chief, (208) 332-3570 ext. 3572.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

Joe Karpach  
Appeals Bureau, Chief  
Department of Commerce and Labor  
317 W. Main Street  
Boise, ID 83735  
(208) 332-3570 ext. 3572  
(208) 334-6440 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0106-0502**

**026. CONDUCT OF HEARING.**

Upon request for appeal, a hearing shall be set and written notice of the time and place of hearing shall be mailed to each interested party not less than seven (7) days prior to the hearing date. (2-25-94)

**01. Telephone Hearings.** Hearings will be held by telephone unless, in the sole discretion of the appeals examiner, a personal hearing should be set. In deciding the manner in which to conduct the hearing, the appeals examiner shall consider factors, including but not limited to the desires of the parties, possible delay and expense, the burden of proof, the complexity of the issues, and the number and location of witnesses. (3-19-99)

**02. Continuance.** The appeals examiner may postpone or continue a hearing for good cause on the examiner's own motion or that of any party, before a hearing is concluded. The appeals examiner may order the dismissal of an appeal for good cause, such as abandonment of the appeal. (3-19-99)

**03. Rehearing.** An application for rehearing shall be in writing and filed in person or postmarked within ten (10) days after the appeals examiner's decision is served. (3-19-99)

**04. No Appearance Hearings.** If no party appears to present additional evidence, a decision ~~will~~ may then be based on the ~~available evidence~~ existing record. For this purpose, the existing record will consist of documents maintained by the Department in the ordinary course of adjudicating the issues in the case, copies of which have been provided to the parties with the notice of hearing. ~~(2-25-94)~~( )

**05. Exhibits and Recordings.** The exhibits and tape recordings from a hearing may be destroyed, reused, or otherwise disposed of after the expiration of the time period for appeal from the decisions of the appeals examiner. (3-19-99)

**06. Subpoenas.** After determining that a subpoena of a witness or records is necessary and reasonable, the appeals examiner shall issue the subpoena, which may be served by mail or in person. (3-19-99)

**07. Failure to Respond to Subpoena.** If a person fails to respond to a subpoena issued by mail, the appeals examiner will proceed with the scheduled hearing and determine, after hearing the available testimony, whether the subpoena is still necessary and reasonable. If so, the hearing will be continued and a second subpoena will be issued and personally served. (3-19-99)

**08. Witness Fees.** Individuals who attend hearings before the appeals examiner as subpoenaed witnesses, not parties, shall be entitled to receive a fee of seven dollars and fifty cents (\$7.50) for each day or portion thereof for attendance. In no case shall a witness be paid more than seven dollars and fifty cents (\$7.50) for any one (1) day. Subpoenaed witnesses shall also be entitled to mileage expense at the current allowable mileage reimbursement rate as determined by the Idaho State Board of Examiners. For appeals under the Employment Security Law, such witness fees and mileage expenses shall be paid from the Employment Security Administration fund. Under no circumstances shall interested parties to a hearing be granted witness fees or mileage expenses. Mileage fees are not allowed for vicinity travel. (4-5-00)

**09. Undecided Issues.** When it is apparent that there is no prior ruling on an issue which must be decided under the Act, the appeals examiner may hear and decide the issue. (3-19-99)

**10. Type of Hearing.** The proceeding before an appeals examiner will be a hearing "de novo" or original hearing and not solely a review proceeding. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**11. Role of Appeals Examiner.** The appeals examiner will function as a fact finder and not solely as a judge. The appeals examiner will have the responsibility of developing all the evidence that is reasonably available. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**12. Order of Witnesses.** The appeals examiner will direct the order of witnesses and develop evidence in a logical and orderly manner to move the hearing along as expeditiously as possible. Therefore, as a general rule, the party who bears the burden of proof will be called to testify first. The appeals examiner will exercise reasonable discretion in directing the order, which must be flexible and dependent upon the particular circumstances of each case

and which party has the most information. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code.

(4-5-00)

**13. Exclusion of Irrelevant Testimony.** The appeals examiner will control the undue extension of the hearing by excluding repetitious or irrelevant testimony. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code.

(4-5-00)

**14. Disruptive Individuals.** The appeals examiner may exclude disruptive individuals from the hearing or may postpone the hearing if the integrity of the proceedings is being compromised. If an interested party is excluded, he will be provided a copy of the tape recording of the proceedings and given an opportunity to submit written evidence and argument prior to the issuance of the decision and the opposing party will be given an opportunity to respond. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code.

(4-5-00)

**15. Challenge of General Knowledge.** If judicially cognizable facts or general, technical, or scientific facts within the appeals examiner's specialized knowledge are used in the decision, the parties will be given an opportunity to challenge them either at the time of the hearing or prior to or at the time of the issuance of the decision. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code.

(4-5-00)

**16. Closing Arguments.** Closing arguments including response in an appeals hearing will be limited to a total of five (5) minutes for each party unless the appeals examiner grants an exception. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code.

(4-5-00)

**IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

**09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU**

**DOCKET NO. 09-0135-0509**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 September 21, 2005.

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

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

The proposed change to IDAPA 09.01.35.112 eliminates the following factor from consideration on the "direction and control" test for independent contractors: whether the putative employer can terminate the worker without contractual liability. The change to the rule is to comply with an Idaho Supreme Court decision issued on June 21, 2005, Excell Construction v. Idaho Department of Commerce & Labor. The Court invalidates this factor in the footnote on page 9 of the opinion. This change is being made to comply with the guidance provided by the Supreme Court.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with an Idaho Supreme Court decision issued June 21, 2005.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to a Supreme Court decision.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

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 September 28, 2005.

DATED this 7th day of September, 2005.

Don Arnold  
Tax & Benefit Control Bureau Chief  
Department of Commerce and Labor  
317 W. Main Street, Boise, ID 83735  
332-3570 x 3258 / 334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0509

112. DETERMINING STATUS OF WORKER.

**01. Determining If Worker is an Employee.** In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors shall be considered: (3-19-99)

**a.** The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-19-99)

**b.** Statements made to the department; (3-19-99)

**c.** Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-19-99)

**d.** Whether life, health, or other benefits are provided to the worker at the business entity's expense. (3-19-99)

**02. Determining If Worker is an Independent Contractor.** If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-19-99)

**03. Proving Worker is Free From Control or Direction in His Work.** To meet the requirement of Section 72-1316(4)(a), Idaho Code, it must be proven that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors shall be considered in this determination: (3-19-99)

**a.** Whether the alleged employer has control over: (3-19-99)

**i.** The details of the work; (3-19-99)

**ii.** The manner, method or mode of doing the work; and (3-19-99)

**iii.** The means by which the work is to be accomplished, but without reference to having control over the results of the work. (3-19-99)

**b.** The freedom from direction and control must exist in theory (under a contract of service) and in fact; and ~~(3-19-99)~~(7-1-05)T

**c.** The employer must demonstrate that it lacked a right to control the worker; and ~~(3-19-99)~~(7-1-05)T

~~**d.** Whether either of the parties could summarily terminate or be terminated during the progress of the work without resulting contractual liability or rights. (3-19-99)~~

**04. Proving Worker is Engaged in Independently Established Business.** To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors shall be considered in this determination: (3-19-99)

**a.** Skills, qualifications, and training required for the job; (3-19-99)

- b.** Method of payment, benefits, and tax withholding; (3-19-99)
  - c.** Right to negotiate agreements with other workers; (3-19-99)
  - d.** Right to choose sales techniques or other business techniques; (3-19-99)
  - e.** Right to determine hours; (3-19-99)
  - f.** Existence of outside businesses or occupations; (3-19-99)
  - g.** Special licensing or regulatory requirements for performance of work; (3-19-99)
  - h.** Whether the work is part of the employer's general business; (3-19-99)
  - i.** The nature and extent of the work; (3-19-99)
  - j.** The term and duration of the relationship; (3-19-99)
  - k.** The control of the premises; (3-19-99)
  - l.** Whether the worker has the authority to hire subordinates; (3-19-99)
  - m.** Whether the worker owns or leases major items of equipment or incurs substantial unreimbursed expenses, provided, that in a case where a worker leases major items of equipment from the alleged employer: (3-19-99)
    - i.** The terms of the lease; and (3-19-99)
    - ii.** The actions of the parties pursuant to those terms must be commercially reasonable as measured by applicable industry standards. (3-19-99)
  - n.** Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship; and, (3-19-99)
  - o.** Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business. (3-19-99)
- 05. Meeting Criteria for Covered Employment.** A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-19-99)
- 06. Evidence of Contractual Liability for Termination.** For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Sec. 72-1316(4), Idaho Code. (3-19-99)

**IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

**09.02.10 - RULES OF THE EASTERN SNAKE PLAIN AQUIFER MITIGATION GRANT PROGRAM**

**DOCKET NO. 09-0210-0401**

**NOTICE OF RULEMAKING**

**RESCISSION OF TEMPORARY RULE**

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. This rulemaking action is authorized pursuant to Section 67-4702, Idaho Code.

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

This docket was inadvertently submitted to the 2005 Legislature for review and extension by the Office of Administrative Rules and should have terminated at the end of the 2005 legislative session. The grant money that was available for distribution has been used, and the program is no longer in effect. This temporary rule is hereby rescinded and is void and of no force and effect.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the rescission of this temporary rule, contact Dwight Johnson at (208) 332-3570 ext. 3209.

DATED this 11th day of August, 2005.

Dwight Johnson  
Legislative Affairs Manager  
Idaho Department of Commerce and Labor  
ESPA Grant Program  
700 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0092  
(208) 332-3570 ext. 3209  
(208) 334-6430 fax



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

**10.01.01 - RULES OF PROCEDURE**

**DOCKET NO. 10-0101-0501**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, 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 September 21, 2005.

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

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

The proposed amendments will change the contact information for the Board office to current status and they will preclude the Board from proctoring examinations for other jurisdictions except for state-specific examinations.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees associated with these proposed amendments.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no impact to the State General Fund or the agency dedicated funds.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the July 6, 2005 Idaho Administrative Bulletin, Volume 05-7, page 12. A public meeting was held and no comments were received verbally or in writing.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Director, at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 22nd day of July, 2005.

David L. Curtis, P.E., Executive Director  
Idaho Board of Registration of Professional Engineers and Professional Land Surveyors  
5535 W. Overland Road  
Boise, Idaho 83705-2728  
Phone (208) 373-7210/Fax 373-7213

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-0501**

**004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS -- TELEPHONE NUMBERS.**

The office of the Board shall be at ~~600 South Orchard, Suite A, Boise, Idaho 83705-1242~~ 5535 W. Overland Road, Boise, Idaho 83705-2728. Normal office hours shall be from 7:00 am to 4:00 pm Monday through Friday except holidays as recognized by the state of Idaho. The mailing address shall be the same as the street address. The telephone number shall be (208) ~~334-3860~~ 373-7210. The telephone number for the facsimile machine shall be (208) ~~334-2008~~ 373-7213. The telephone number for the TDD relay shall be 1-800-377-3529. ~~(5-3-03)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**017. EXAMINATIONS.**

**01. Semiannually or Annually; Special or Oral Examination.** Examinations for professional engineer, professional land surveyor, engineer-in-training and land surveyor-in-training will be held annually or semi-annually, the exact time and place to be determined by the Board. Special oral or written examinations during the year may be given by the Board. (7-1-93)

**02. Eligibility for Examinations, Educational Requirements.** The application for registration for professional engineer, professional land surveyor or certification of engineer-in-training or land surveyor-in-training, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before admittance to any examination. (7-1-93)

**a.** In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs which are accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). Non-EAC/ABET accredited engineering programs and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-20-04)

**b.** An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer-in-Training or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer. (3-20-04)

**i.** Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

**ii.** Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

**c.** In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements:

(4-22-94)

- i. Be a registered professional engineer in Idaho. (7-1-93)
- ii. Have two (2) years of work experience in the field of structural engineering after being registered as a professional engineer. The Principles and Practice of Engineering examination for Structural Engineering will cover the practice of structural engineering to test the applicant's fitness to assume responsibility for engineering work affecting the public health, safety and welfare. The examination shall be sixteen (16) hours. (7-1-93)

**d.** The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology in the discipline of the applicant's master's degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-5-00)

**03. Notification to Applicant by Board.** Notification of assignment or non-assignment to the examination will be furnished to the applicant at least thirty (30) days prior to the date of the examination. (4-5-00)

**04. Notification to Board by Applicant.** The applicant shall, at least fifteen (15) days before an examination, notify the Executive Director of the Board whether or not he will appear for the examination. Examinations will be given only to those who have so notified the Board. (4-5-00)

**05. Excused Non-Attendance at Exam.** In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

**06. Two Examinations for Engineering Registration.** The complete examining procedure for registration as a professional engineer consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer-in-training certification, and the second is the Principles and Practice of Engineering for professional engineer registration. Each examination shall be eight (8) hours in length. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering curriculum. A certificate as an Engineer-in-Training will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (4-22-94)

**07. Fundamentals of Engineering.** The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants education. (4-5-00)

**08. Principles and Practice of Engineering - Disciplines.** The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

**09. Two Examinations for Land Surveying Registration.** The complete examining procedure for

registration as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Land Surveying examination for land surveyors-in-training certification, and the second is the Principles and Practice of Land Surveying registration. Each examination will be a total of eight (8) hours in length. Having passed the Fundamentals of Land Surveying examination, applicants will be required to take the Principles and Practice of Land Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Land Surveying examination may consist of separate modules, each of which must be passed. (4-5-00)

**10. Oral or Unassembled Examinations.** An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

**11. Special Examinations.** A special examination, written or oral or both, may be required in certain instances where the applicant is seeking registration through comity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or registration in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (7-1-93)

**12. Grading.** Each land surveyor-in-training, engineer-in-training and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire eight (8) hour examination before being awarded certification or registration. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each section of the examination. (4-5-00)

**13. Use of NCEES Examinations.** Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineers-in-training, professional land surveyors, and land surveyors-in-training may be used by the Board. The examination for the field of structural engineering shall be the sixteen (16) hour examination as determined by the Board. (7-1-93)

**14. Review of Examination by Examinee.** Due to security concerns about the examinations, examinees shall not be allowed to review their examination. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board. (3-20-04)

**15. Disposal of Used Examination Pamphlets and Answer Sheets.** The Executive Director of the Board is authorized by the Board to dispose of used examination solution pamphlets and answer sheets after the first anniversary date after the examination was given. (3-30-01)

**16. Proctoring of Examinations.** Unless otherwise approved, the Board will not proctor an examination for another jurisdiction if the candidate would qualify under Title 54, Chapter 12, Idaho Code and these rules for assignment to the examination being proctored except State-Specific examinations. (3-20-04)(\_\_\_\_)

## IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-0501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, 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 September 21, 2005.

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:

Exception language added to Advanced Certificate requirements; updates Level I Reserve curriculum; updates the rules governing the certification of vocational law enforcement programs; and updates the rules governing canine team certification.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting of the rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael N. Becar at (208) 884-7251.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 27th day of July, 2005.

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

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-0501

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

The principal place of business of the Idaho State Police, Peace Officer Standards and Training, is in Meridian, Idaho. The office is located at 700 South Stratford Drive, Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Peace Officer Standards and Training Academy, P.O. Box 700, Meridian, Idaho 83680-0700. The telephone of the office is (208) 884-7250. The facsimile number of the office is (208) 884-7295. The Peace Officer Standards and Training website is <http://www.idaho-post.org>.

(3-15-02)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**092. LAPSE OF PEACE OFFICER CERTIFICATION.**

The certification of any peace officer will be considered lapsed if the officer does not serve as a peace officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified as peace officers who remain in active law enforcement in Idaho will retain their POST certification for purposes of compliance with this rule. The person must satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours active law enforcement per year. This includes administrative, jail, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. ~~Provided further that those persons once POST certified as peace officers in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who attend an approved course of study in Idaho law and pass the POST Idaho law exam may petition the Executive Director for recertification. The Executive Director will have the discretion to grant or deny the petition or may refer the petition to the Council.~~

(4-6-05)(\_\_\_\_)

**01. Three to Five Years.** A peace officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (4-6-05)

- a. Submit a POST Certification Patrol Challenge Packet; (4-2-03)
- b. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)
- c. Pass the following tests administered by a POST Training Specialist: (4-2-03)
  - i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)
  - ii. The POST Firearms Qualification Course; (4-2-03)
  - iii. The POST Physical Fitness Test Battery; and (4-2-03)
- d. Satisfy the probationary period requirement of Section 062. (4-2-03)

**02. Over Five Years.** A peace officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Patrol Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence must be submitted with a POST Certification Patrol Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (4-6-05)

- a. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)
- b. Attend and pass Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)
- c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

- i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)
- ii. The POST Firearms Qualification Course; (4-2-03)
- iii. The POST Physical Fitness Test Battery; and (4-2-03)
- d. Satisfy the probationary period requirement of Section 062. (4-2-03)

**03. Over Eight Years.** A peace officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Patrol Academy to be recertified. No waiver of this requirement will be granted by the Council. (4-6-05)

**04. Exception.** The provisions of Subsections 092.01 through 092.03 will not apply to officers holding a part-time basic certificate who satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year within the law enforcement profession. (4-6-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**133. MINIMUM TRAINING REQUIREMENTS.**

**01. Level I Reserve Core Curriculum.** Any reserve officer desiring Level I Reserve certification ~~shall~~ must successfully complete the POST Council-approved Level I Reserve core curriculum consisting of ~~one hundred sixty two hundred thirty-three~~ (+60233) hours of training. Part of the ~~one hundred sixty two hundred thirty-three~~ (+60233) hour core curriculum may be taught by uncertified instructors provided the high liability classes as identified by POST are taught by POST-certified instructors. (~~4-2-03~~)(    )

**02. Curriculum.**

- \* -- ~~Shall~~ Must be taught by a Prosecutor.
- \*\* -- ~~Shall~~ Must be taught by a Judge.
- \*\*\* -- ~~Shall~~ Must be taught by a POST-certified Instructor.
- \*\*\*\* -- ~~Shall~~ Must be taught by a Prosecutor and/or a Judge and/or a Prosecutor.

Course		Hours
<b>Law</b>		
* 1.	Probable Cause and Laws of Arrest	4
* 2.	Constitutional Laws	<del>4</del> <u>2</u>
* 3.	Search and Seizure Laws	<del>6</del> <u>8</u>
* 4.	<del>Warrantless Arrest</del> <u>Court Procedures &amp; Rules of Evidence</u>	<del>4</del> <u>4</u>
* 5.	<del>Laws of Evidence</del> <u>Idaho Criminal Code</u>	<del>4</del> <u>8</u>
<del>* 6.</del>	<del>Criminal Law Procedure</del>	2
<del>* 7.</del>	<del>Civil Law</del>	2
* <del>8</del> <u>6</u> .	Motor Vehicle Law	4
* <del>9</del> <u>7</u> .	Liquor Law	<del>4</del> <u>2</u>
		<del>22</del> <u>32</u>
<b>Professional Orientation</b>		

	<b>Course</b>	<b>Hours</b>
1.	<del>Ethics, Public Relations and the Role in the Community</del> Career Survival: Police Ethics and Professionalism	28
2.	<del>Officer-Violator Relations</del>	2
		<b>48</b>
<b>Police Procedures</b>		
4.	<del>Radio Procedures</del>	2
21.	Jail Procedures, <del>Booking, and Fingerprinting</del>	2
32.	Report Writing and Note Taking	8
*** 43.	<del>Courtroom Testimony</del> Testifying in Court	24
*** 54.	<del>Searching Suspects and Handling Prisoners</del> Arrest Control Tactics	38
65.	Building Search	58
*** 76.	Emergency Vehicle Operation	824
*** 7.	Firearms	34
		<b>3088</b>
<b>Patrol Procedures</b>		
1.	<del>Introduction to Modern Law Enforcement</del> Patrol Procedures	48
2.	Domestic Disputes	28
3.	<del>Crimes Against Persons</del> Traffic Control	23
4.	<del>Crimes Against Property</del>	2
*** 5.	<del>High &amp; Low Risk Stops</del>	4
		<b>149</b>
<b>Practical Problems</b>		
4.	<del>Mock Crime Scenes</del>	2
*** 21.	<del>High &amp; Low Risk</del> Traffic Stops	8
		<b>408</b>
<b>Investigations</b>		
*** 1.	DUI Investigation	16
2.	Auto and R.V. Theft	42
3.	<del>Intro to Accident Investigation Module I</del> Traffic Collision	8
4.	<del>Preservation of Evidence</del>	2
54.	Narcotics	4
65.	Juvenile Procedures	2
76.	Interview & Interrogation	42



	Course	Hours
<del>8</del> 7.	<del>Death, Burglary, and Robbery</del> Crime Scene Investigation, Preservation of Evidence, and Fingerprinting	<del>2</del> 16
		<del>26</del> 50
<b>Enforcement Skills</b>		
*** 1.	Hazardous Materials	4 8
*** 2.	Weapon Retention	<del>6</del> 8
*** 3.	Arrest <del>Techniques</del> Control Tactics	8
		<del>48</del> 24
<b>Firearms Proficiency</b>		
<del>*** 1.</del>	<del>Firearms Training, Classroom</del>	6
<del>*** 2.</del>	<del>Firearms Training, Range</del>	48
<del>*** 3.</del>	<del>Firearms Qualification</del>	8
<del>*** 4.</del>	<del>Use of Deadly Force, Legal Aspects</del>	2
		<del>34</del>
<b>Administrative Matters</b>		
1.	Registration, Explanation of Schedule	4 2
2.	Written Exam, Course Evaluations	4 2
		<del>5</del> 4
<b>Total Number of Training Hours</b>		<del>160</del> 233
<b>Optional Classes</b>		
<del>*** 1.</del>	<del>Side Handle Baton Training &amp; Certification</del>	12
<del>*** 2.</del>	<del>Intoxilyzer 5000 Training &amp; Certification</del>	8
<del>3.</del>	<del>Boating Laws</del>	4
<del>4.</del>	<del>Boat Theft</del>	4
<del>5.</del>	<del>Crime Scene Sketching</del>	<del>1.5</del>
<del>6.</del>	<del>Use of Informants</del>	2
<del>7.</del>	<del>Crime Prevention</del>	2
<b>Total Number of Optional Training Hours</b>		<del>27.5</del>

(4-2-03)( )

03. **Documentation of Completed Training.** The Council shall accept written certification from the agency head as proof that a reserve officer has satisfactorily completed the required ~~one hundred sixty two hundred~~ thirty-three (~~160~~233) hour core curriculum. However, no officer shall be awarded training hours on his POST training record for any training completed which has not been certified by the Council as set out in Sections 281 through 287.

(4-2-03)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**171. LAPSE OF DETENTION OFFICER CERTIFICATION.**

The certification of any county detention officer will be considered lapsed if the officer does not serve as a county detention officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified as county detention officers who remain in active law enforcement in Idaho will retain their POST certification for purposes of compliance with this rule. The person must satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours active law enforcement per year. This includes administrative, patrol, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. ~~Provided further that those persons once POST certified as county detention officers in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam may petition the Executive Director for recertification. The Executive Director will have the discretion to grant or deny the petition or may refer the petition to the Council.~~ (4-6-05)(\_\_\_\_)

**01. Three to Five Years.** A county detention officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (4-6-05)

- a. Submit a POST Certification Detention Challenge Packet; (4-2-03)
- b. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)
- c. Pass the following tests administered by a POST Training Specialist: (4-2-03)
  - i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.; (4-2-03)
  - ii. The POST Firearms Qualification Course; (4-2-03)
  - iii. The POST Physical Fitness Test Battery; and (4-2-03)
- d. Satisfy the probationary period requirement of Section 062. (7-1-99)

**02. Over Five Years.** A county detention officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Detention Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence must be submitted with a POST Certification Detention Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (4-6-05)

- a. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)
- b. Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)
- c. Pass the following tests administered by a POST Training Specialist: (4-2-03)
  - i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.; (4-2-03)
  - ii. The POST Firearms Qualification Course; (4-6-05)
  - iii. The POST Physical Fitness Test Battery; and (4-6-05)

- d. Satisfy the probationary period requirement of Section 062. (7-1-99)

**03. Over Eight Years.** A county detention officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Detention Academy to be recertified. No waiver of this requirement will be granted by the Council. (4-6-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**202. ADVANCED CERTIFICATE.**

**01. Requirements.** The Advanced Certificate is for individuals who have consciously decided to focus career efforts on public safety communications. A candidate for the Advanced Certificate ~~shall~~ must: ~~(4-2-03)~~(\_\_\_\_)

- a. Possess the Level III Communications Specialist Certificate. (4-2-03)
- b. Have satisfactorily completed five hundred (500) hours of POST-certified communications-related training. (4-2-03)
- c. Have satisfactorily completed both the POST Basic and Advanced Dispatch Academies. (4-2-03)
- d. Have a minimum of ten (10) years of communications specialist experience. (4-2-03)

**02. Exception.** An applicant who has a minimum of twenty (20) years of communications specialist experience but has not satisfactorily completed the POST Basic and Advanced Dispatch Academies will be eligible for the Advanced Certificate without attending the academies provided he meets all other requirements as set forth in Section 202 of these rules and can pass the final examination for each academy with a minimum score of seventy-five percent (75%). The applicant will be allowed two (2) attempts to pass each examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an applicant fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic and Advanced Dispatch Academies to be eligible for the Advanced Certificate. (\_\_\_\_)

**203. -- ~~210~~209. (RESERVED).**

**210. CANINE EVALUATOR CERTIFICATION.**

**01. Purpose.** Canine Evaluator Certificates are established for the purpose of recognizing competence as an evaluator of police canine teams. (\_\_\_\_)

**02. Certification.** The Council will certify applicants who meet the requirements set forth in this section and are deemed qualified by their training and experience to evaluate police canine teams. Certificates will be issued in the areas of Patrol, Tracking, Evidence Search, Controlled Substance Detection, and Explosive Substance Detection. The applicant must show training and experience in each area he is requesting certification in. Certificates will be issued to the agency head for award to the applicant. (\_\_\_\_)

**03. Revocation.** Canine Evaluator certification may be revoked by the Council whenever a canine evaluator is deemed to be unqualified to continue evaluating police canine teams. Review of canine evaluator certification may be initiated upon the request of an agency head or other reliable source. Such review may also be initiated by the Council in the absence of external requests or complaints. (\_\_\_\_)

**04. Eligibility.** To be eligible for the award of a Canine Evaluator Certificate, each applicant must meet the following POST requirements: (\_\_\_\_)

- a. Be a POST-certified or federally commissioned peace, detention, correction, or adult probation and

- parole officer who is actively involved in a law enforcement canine program: ( )
- b.** Have three (3) years of canine handler experience: ( )
  - c.** Have three hundred ninety (390) hours of POST-certified or federally-approved canine-related training: ( )
  - d.** Successfully complete the Idaho POST-certified Canine Evaluators course: ( )
  - e.** Evaluate seven (7) dogs while under supervision of a current Idaho POST-certified canine evaluator; and ( )
  - f.** Submit an Idaho POST Canine Evaluator Application Packet to POST Council, which must include: ( )
    - i.** Transcripts, certificates, diplomas, or other documents that substantiate the applicant's education and training in the canine field; and ( )
    - ii.** A letter of recommendation from a current Idaho POST-certified canine evaluator. ( )

**211. CANINE TEAM CERTIFICATION.**

These rules are intended to set minimum standards of performance for the certification of Idaho police canine teams. Nothing in these rules is intended to limit the use of canine teams employed by other states or federal agencies for law enforcement purposes, or the use of volunteer canine teams in which the handler is not an Idaho peace, ~~or~~ detention, correction, or adult probation and parole officer. (4-2-03)( )

**212. DEFINITIONS.**

**01. Canine Team.** A specific person and a specific canine controlled by that person in the capacity of handler, formally assigned by the appointing agency to work together in the performance of law enforcement duties. (3-15-02)

~~**02. Evaluator.** An Idaho POST-certified peace or detention officer or a corrections officer with three (3) years of canine handler experience and three hundred ninety (390) hours of accredited canine training who has been recommended to the Council by the Idaho Police Canine Association and subsequently approved as an Idaho POST-certified instructor of canine subjects for the purpose of testing and certifying canine teams. (3-30-01)~~

~~**032. Pace.** A distance measuring approximately two (2) feet. (3-30-01)( )~~

**213. GENERAL PROVISIONS.**

**01. Mandatory Certification.** A canine team ~~shall~~ must be Idaho-POST certified in order to perform their duties unless the team is POST-certified in another state or approved by the federal government, in which case they will have six (6) months from the date the canine is put into service in Idaho to obtain Idaho POST certification. The Council, for good cause and in writing, may grant additional time to complete POST certification. (4-2-03)( )

**02. Eligibility.** The canine handler ~~shall~~ must be an Idaho POST-certified peace, ~~or~~ detention, correction, or adult probation and parole officer to be eligible for certification under these rules. (4-2-03)( )

**03. Notification of Canine Being Put Into Service.** Prior to a canine being put into service, the law enforcement agency head must submit written notification to the Council of such pending action unless the canine team is POST-certified in another state or approved by the federal government, in which case notification must be submitted within fifteen (15) days of the canine being put into service in Idaho. ( )

**04. Training.** ( )

a. A patrol canine handler must have completed one hundred sixty (160) hours of POST-approved canine handler training. The training must include, but not be limited to: ( )

- i. Suspect search; ( )
- ii. Apprehension; ( )
- iii. Handler protection; ( )
- iv. Obedience; and ( )
- v. Agility. ( )

b. A tracking, evidence search, controlled substance detection, or explosive substance detection canine handler must have completed eighty (80) hours of POST-approved canine handler training. The training must include, but not be limited to: ( )

- i. Obedience; and ( )
- ii. Odor recognition specific to the area the canine team is seeking certification in. ( )

c. A tracking, evidence search, controlled substance detection, or explosive substance detection canine handler cross-trained as a patrol canine handler must have completed two hundred forty (240) hours of POST-approved canine handler training as set forth in Subsections 213.04.a. and 213.04.b. ( )

**035. Evaluation.** In evaluating the proficiency of the canine teams, the evaluators shall must use the standards promulgated by the Idaho Police Canine Association and approved by the POST Council for that particular skill category. Performance shall will be rated on a pass/fail basis. The evaluator shall will have the discretion to discontinue the testing if excessive time has been spent without results. The evaluator must not be the owner or handler of the canine being evaluated, and must not have a proprietary interest in the training of the canine team being evaluated. A POST Training Specialist, or his designee, shall must be present for notified of all canine certification testing. (4-2-03)( )

**06. Failed Evaluation.** If a canine team fails any portion of an evaluation, the entire evaluation is considered to be failed, and all skills must be repeated and successfully demonstrated during retesting. The canine team must wait at least twenty-four (24) hours before retesting, and they must be retested by the same evaluator that evaluated the failed test or his designee. ( )

**047. Areas of Certification.** The Council shall will certify a canine team which successfully demonstrates the handler's ability to control the canine, under the scrutiny of a canine evaluator, in addition to proficiency in one (1) or more of the following areas: (4-2-03)( )

- a. Patrol; (3-30-01)
- b. Tracking; (3-30-01)
- c. Evidence search; (3-30-01)
- d. Controlled substance detection; or (3-30-01)
- e. Explosive substance detection. (3-30-01)

**058. Expiration of Certification.** Each certification issued pursuant to these rules shall will remain valid for fifteen (15) months. A canine team shall must be evaluated prior to their certification expiration date to maintain their certification. If the canine team fails any portion of an evaluation, they shall be re-evaluated for the failed area. A canine team certification shall will lapse if the specific handler and canine, as originally paired at the time of certification, cease to perform canine team functions together. (4-2-03)( )

**069. Appeal.** Any handler who believes there have been improper procedures applied in implementing the standards may file an appeal with the Idaho Peace Officer Standards and Training Academy in writing. This appeal ~~shall~~ **must** be filed within thirty (30) days of the testing date. (4-2-03)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**220. CERTIFICATION TEST.**

- 01. Required Skills.** The skills required for certification of a patrol dog team are: (4-2-03)
- a. Suspect search; (3-30-01)
  - b. Apprehension; (3-30-01)
  - c. Handler protection; and (3-30-01)
  - d. Obedience-agility. (3-30-01)

**02. Failed Evaluation.** If a canine team fails any one (1) of the four (4) required skills, the entire evaluation is considered to be failed, and all four (4) skills must be repeated and successfully demonstrated during retesting. (    )

**023. Conclusion of Evaluation.** The patrol dog evaluation ~~shall~~ **must** be concluded within twenty-four (24) hours. This is to establish that the dog's mental and physical endurance is sufficient to withstand the rigors of active service. (4-2-03)(    )

**221. PERFORMANCE OBJECTIVES.**

**222. SUSPECT SEARCH.**

Under direction and reasonable control, the canine ~~shall~~ **must** demonstrate the ability to detect and audibly alert the handler to a hidden person in a structure or building and locate a person in an outdoor open area. The handler ~~shall~~ **must** inform the evaluator of the manner in which the canine alerts prior to the exercise beginning. In a structure or building of at least one thousand five hundred (1,500) square feet with multiple rooms and hiding places, the dog ~~shall~~ **must** demonstrate the ability to locate a hidden person and audibly alert the handler. In an outdoor area at least one (1) acre in size with multiple hiding locations, the dog ~~shall~~ **must** demonstrate the ability to locate a hidden person and audibly alert the handler. (4-2-03)(    )

**223. APPREHENSION.**

**01. Without Contact.** While off leash and under direction of the handler, the dog ~~shall~~ **must** demonstrate the ability to pursue a person acting as a suspect without any physical contact. The police service dog team ~~shall~~ **must** begin the exercise off leash from a predesignated starting point. While the handler controls the dog, the evaluator ~~shall~~ **will** signal the "suspect" to visually present himself at a reasonable distance of at least thirty (30) yards from the canine team. The handler ~~shall~~ **must** verbally challenge the "suspect" to stop. The "suspect" ~~shall~~ **will** ignore the order and continue to flee. The handler ~~shall~~ **must** then release the dog in pursuit of the "suspect" and tactically follow the dog, keeping the dog and "suspect" in full view. The "suspect" ~~shall~~ **will** stop fleeing and stand still. As predetermined by the handler, the dog ~~shall~~ **must** either return to the handler or stay and guard the "suspect". During this exercise, the dog ~~shall~~ **must** not make physical contact with the "suspect". (4-2-03)(    )

**02. With Contact.** While under control of the handler and with the dog off-leash, the dog ~~shall~~ **must** demonstrate the ability to pursue and apprehend a "suspect" with physical contact. The police service dog team ~~shall~~ **must** begin the exercise off leash from a predesignated starting point. While the handler controls the dog, the evaluator ~~shall~~ **will** signal the "suspect" to visually present himself at a reasonable distance of at least thirty (30)

yards from the canine team. The handler shall must verbally challenge the “suspect” to stop. The “suspect” shall will ignore the order and continue to flee. The handler shall must then release the dog in pursuit of the “suspect” and tactically follow the dog, keeping the dog and “suspect” in full view. The “suspect” shall will continue to flee. The handler shall must send the dog to physically apprehend the “suspect” and the dog shall must hold the “suspect” until called off (verbal only) by the handler. (4-2-03)( )

**224. HANDLER PROTECTION.**

The dog shall must demonstrate the ability to defend the handler without command during a physical attack on the handler by a “suspect”. On verbal command from the handler, the dog shall must cease physical apprehension of the assailant. Upon the dog releasing the “suspect,” the dog shall must assume a guard position while the handler takes control and conducts a “pat down” of the “suspect”. (4-2-03)( )

**225. OBEDIENCE-AGILITY.**

The handler shall must demonstrate the ability to control the canine during an obedience performance test. Testing shall will be conducted using reasonable distractions that may be encountered during the performance of law enforcement duties. (4-2-03)( )

**01. Heeling.** The canine team shall must demonstrate the ability to perform basic routine left, right, and about turns, both slow and quick pace, on and off leash. Testing shall will consist of two (2) right turns, two (2) left turns, two (2) about turns, and two (2) stop/sits, both on and off leash. (4-2-03)( )

**02. Down in Motion.** With the team moving forward, the handler shall must “down” the dog on the evaluator’s command and continue to move forward until the handler reaches a designated point (at least thirty (30) paces away). At the evaluator’s command, the handler shall must recall the dog to the “heel” position by means of voice and/or hand commands. (3-30-01)( )

**03. Down Stay From A Distance.** With the dog in a ~~stand~~ down-stay or a sit-stay position, the handler shall must face the dog from a location at least thirty (30) paces away, ~~wait for the evaluator’s signal, then “down” the dog by the means of voice and/or hand signals.~~ After the dog has remained ~~down~~ for five (5) minutes, the handler shall must return to the dog ~~and release him from the down.~~ (3-30-01)( )

**04. Obstacle (At Least Thirty-Six Inches High).** From the heel position, and at least two (2) paces in front, the handler shall must command the dog to jump the obstacle and to stay in a sit, stand, or down position on the other side of the obstacle. The handler shall must inform the evaluator prior to the jump what position the dog will assume. The handler shall must then proceed to the dog and command the dog to heel to complete the exercise. (3-30-01)( )

**05. Gunfire Sureness Test (Off-Lead).** The handler shall must heel his canine onto the test field. After approximately twenty (20) paces, the handler shall must stop, place his dog in a down or sit, draw a pistol and fire two (2) shots (blanks only). The canine may show interest, but no uncontrollable aggression toward the handler or persons in the area. (3-30-01)( )

**226. -- 230. (RESERVED).**

**231. TRACKING DOGS.**

The dog shall must demonstrate the ability to follow the ~~steps~~ trail of a person along a track that is four hundred (400) to six hundred (600) paces in length, having two (2) ninety (90) degree turns and aged a minimum of thirty (30) minutes. A cross-track shall will be placed at some point along the third leg as a diversion. The dog shall must not be diverted from the original track. (4-2-03)( )

**232. EVIDENCE SEARCH DOGS.**

The dog shall must demonstrate the ability to locate two (2) well-scented, small items that the evaluator has hidden within an eight hundred (800) square yard area. The dog shall and the handler must be out of sight when the items are placed. The handler shall must direct the dog to search systematically. The dog shall must demonstrate the ability to indicate the location of these items as it encounters them. (4-2-03)( )

**233. -- 2356. (RESERVED).**

~~2367.~~ DETECTION DOGS.

~~2378.~~ CERTIFICATION TEST.

**01. Required Skills.** Detection dog teams ~~shall~~ must demonstrate the ability to detect substances in buildings (residential and commercial), vehicles (private and commercial), ~~luggage and packages containers~~, and exterior open areas. During testing, substances ~~shall~~ will be hidden by the evaluator, outside the knowledge of the handler. The canine ~~shall~~ must start the search at a point determined by the handler. (4-2-03)(    )

**a.** Buildings. The building search ~~shall~~ will consist of an area designated by the evaluator that may vary in size, location, or environment, but ~~shall~~ must consist of at least ~~three~~ four (~~3~~4) rooms. Substances ~~shall~~ will be hidden high and low. (3-30-01)(    )

**b.** Vehicles. The vehicle search ~~shall~~ will consist of at least ~~three~~ four (~~3~~4) vehicles which may vary in size, location, or environment. The search ~~shall~~ must include the interior and exterior of the vehicles. Substances may be hidden inside or on the outside of the vehicle. (3-30-01)(    )

**c.** ~~Luggage and packages Containers.~~ This search ~~shall~~ will consist of at least six (6) ~~pieces of luggage and/or packages containers~~ of different sizes and/or shapes. These pieces may vary in location or environment. (3-30-01)(    )

**d.** Exterior open areas. The exterior search ~~shall~~ will consist of an area in open air that may vary in size, location, or environment, and may include buried substance. (3-30-01)(    )

**02. Basic Control.** Each handler ~~shall~~ must demonstrate the ability to control their canine. This ~~shall~~ must include “sit,” “stay,” “heel,” and “come” commands. (4-2-03)(    )

~~238. TEST CRITERIA:~~

~~The handler shall be evaluated in the following areas:~~ (4-2-03)

~~01. Control. Control of the dog.~~ (4-2-03)

~~02. Recognition. Recognition of the behavioral changes in the dog.~~ (4-2-03)

~~03. Search Patterns. Search patterns, to include:~~ (4-2-03)

~~a. Presentation of the areas to be searched.~~ (3-20-97)

~~b. Manipulation of the environments.~~ (3-20-97)

~~c. Body language which includes negative behavior in the dog (false response, failure to work to the course, etc.) and timeliness of positive and/or negative reinforcement.~~ (3-20-97)

239. SUBSTANCES.

**01. Types and Amounts.** The types and amounts of substance in each search ~~shall~~ will be at the discretion of the evaluator. Substances ~~shall~~ must be set in place at least thirty (30) minutes prior to each test. (4-2-03)(    )

**02. Human Scent.** ~~Articles containing human scent may be placed in each test area.~~ **Pseudo Substances.** Pseudo substances must not be used. (4-2-03)(    )

**03. Dangerous Substance.** ~~The handler shall be notified if a dangerous substance being detected by the dog can be accessed by the dog.~~ (4-2-03)

**04. Not Readily Accessible.** ~~No explosive or controlled substance other than marijuana shall be hidden~~



~~in a location readily accessible to the canine.~~

~~(4-2-03)~~

240. CONTROLLED SUBSTANCES.

~~01. **Controlled Substances.** Controlled substances ~~shall will~~ consist of, ~~but not be limited to~~, four (4) main areas. A drug detection dog must locate two (2) finds of each of the following:~~ ~~(4-2-03)~~(\_\_\_\_)

~~a01. Marijuana and Hashish (two (2) grams or greater). (3-20-97)~~

~~b02. Cocaine (hydrochloride) (two (2) grams or greater). (3-20-97)~~

~~e03. Heroin and Opiate Derivatives (two (2) grams or greater). (3-20-97)~~

~~d04. Methamphetamine (two (2) grams or greater). (3-30-01)~~

~~02. **Narcotic Detection Dog.** It is not required that a narcotic detection dog be trained in all four (4) common fields of controlled substances. However, if the dog is not trained in all four (4) substances, it shall be noted on the evaluation form and in the dog's training records what substances the dog is proficient in detecting.~~

~~(4-2-03)~~

241. EXPLOSIVE SUBSTANCES.

~~01. **Explosive Substances.** Explosive substances ~~shall will~~ consist of, ~~but not be limited to~~, twelve (12) areas. An explosive detection dog must locate one (1) find of each of the following:~~ ~~(4-2-03)~~(\_\_\_\_)

~~a01. C-4 Explosive (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~b02. Pyrodex (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~e03. Ammonium Nitrate (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~d04. Detonating Cord (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~e05. Time Fuse (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~f06. Nitro Methane (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~g07. TNT Pentex (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~h08. Nitro Glycerin Dynamite (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~i09. Non Nitro Glycerin Dynamite (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~j10. Sodium Chlorate (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~k11. Potassium Chlorate (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~l12. Gun Powder (two (2) grams or greater). (3-30-01)(\_\_\_\_)~~

~~02. **Explosives Detection Dog.** It is not required that an explosives detection dog be trained in all twelve (12) common fields of explosive substances. However, if the dog is not trained in all twelve (12) substances, it shall be noted on the evaluation form and in the dog's training records what substances the dog is proficient in detecting.~~

~~(4-2-03)~~

242. TESTING PROCEDURE.

01. ~~Start of Testing~~ **Type of Alert.** Prior to the start of the testing, the handler ~~shall~~ must give the

evaluator ~~the following~~ information on the type of alert (passive or aggressive): (4-2-03)(\_\_\_\_)

- ~~a. The type of alert (passive or aggressive). (3-20-97)~~
- ~~b. The type of reward (ball, food, towel, praise, etc.). (3-20-97)~~
- ~~c. The type of substance(s) the dog is trained to detect (dogs shall be evaluated only on the substances with which they have been trained). (3-30-01)~~
- ~~d. Whether the dog is cross-trained (patrol/drugs/bombs/etc.) (3-20-97)~~

**02. Start and Finish.** The evaluator ~~shall will~~ signal the start and finish of each test and ~~shall will~~ allow reasonable time for the team to cover the area and indicate the location of the substance. ~~The evaluator shall have the discretion to discontinue the search if excessive time has been spent on the search without results. Prior to terminating the search the evaluator may give the team the opportunity to note any changes in behavior and research that specific area.~~ (4-2-03)(\_\_\_\_)

**03. Positive Alert.** The handler ~~shall must~~ verbally indicate to the evaluator that he has a positive alert from his dog and believes that the substance has been found and is in the immediate vicinity. ~~The handler shall indicate the location of the substance to the evaluator. Any false or incorrect alert called by the handler is an automatic failure.~~ (4-2-03)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**321. VOCATIONAL LAW ENFORCEMENT PROGRAM CERTIFICATION/~~RECERTIFICATION~~ STANDARDS.**

~~01. Purpose.~~ The purpose of this policy is to verify that the entity seeking vocational law enforcement certification/recertification is in compliance with all standards established by the Department of Education for such programs and by POST for the operation of a basic course. A program seeking certification must first be approved by the Peace Officer Standards and Training Council prior to beginning the certification process. Entities seeking certification and previously certified vocational law enforcement programs are subject to scheduled and unscheduled visits by field training specialists and other members of the Peace Officer Standards and Training Council in which adherence to certification standards will be evaluated. Vocational law enforcement program certification is valid for two (2) years and expires on June 30th of the second year after the program was certified. In order to maintain certified status a vocational law enforcement program must successfully complete the recertification process prior to the expiration date. (7-1-99)

~~02. Process.~~ (7-1-99)

~~a. The POST Regional Training Specialist will provide guidance and assistance to the prospective vocational law enforcement program by identifying the requirements for certification, and providing an estimate of what needs to be accomplished prior to formally requesting vocational law enforcement program certification status.~~ (7-1-99)

~~b. A staff member of Peace Officer Standards and Training will establish a mutually agreeable date for an on-site inspection with the program coordinator and conduct the on-site assessment for vocational law enforcement program certification.~~ (7-1-99)

~~c. A vocational law enforcement program which has been certified is subject to scheduled and unscheduled visits by the field training specialist and other members of the Peace Officer Standards and Training Council to check items required for continued certification.~~ (7-1-99)

~~d. If at any time it is determined that the certified vocational law enforcement program does not meet~~

~~one (1) or more certification standards, the program will be given a reasonable amount of time to correct the situation, not to exceed sixty (60) days, unless an extension is granted by the POST Council certification committee. The program coordinator will receive written notification of the standards which have not been met and the date when a reassessment will be conducted. (7-1-99)~~

~~e. A staff member of Peace Officer Standards and Training will conduct the reassessment. If one (1) or more of the standards still have not been met, the Administrator or Board Chairman of the vocational law enforcement program will be notified in writing that upon reassessment the standard has not been met. The program will have a maximum of sixty (60) days to comply with all certification standards, unless an extension is granted by the POST Council certification committee. (7-1-99)~~

~~f. A staff member of Peace Officer Standards and Training will conduct the second reassessment. If the program is still not in compliance with all certification standards at the time of the second reassessment, the matter will be referred to the POST Council Certification Committee. The committee will review the findings of the second reassessment in which the program was not in compliance with all certification standards and make a recommendation to the POST Council. (7-1-99)~~

~~g. The POST Council will review the recommendation of the POST Council Certification Committee, giving both the vocational law enforcement program and the POST Council Certification Committee an opportunity to make a verbal presentation, and, based upon all pertinent information, recommend appropriate action. (7-1-99)~~

~~h. Certification is valid for two (2) years from the date of certification. Vocational law enforcement program certification expires on June 30th of the second year after the program was certified. In order to maintain certification status, a program must successfully complete a recertification process prior to the expiration of the original certification. The recertification will extend the expiration date for two (2) years. (7-1-99)~~

~~**03. Definitions. (7-1-99)**~~

~~a. Vocational Law Enforcement Program. A college/university vocational law enforcement program certified by the Idaho Department of Education with a curriculum based on POST performance objectives for basic training. The curriculum must include the minimum instruction in each topic as described in the POST Rules. (7-1-99)~~

~~b. Program Coordinator. An individual designated by the college/university who is responsible for the conduct and operation of training conducted by the vocational law enforcement program. (7-1-99)~~

~~c. Vocational Law Enforcement Program Facility. A facility in which training programs are conducted. It houses classrooms and offices for instructors and staff. Other facilities such as a firing range, driver training track, multipurpose training areas, library and satellite locations are considered to be part of such facility but need not be located at the same site. (7-1-99)~~

~~d. Satellite Facility. A facility, located away from the certified vocational law enforcement program facility, which the certified program uses to conduct forty (40) hours or more of mandated training per year. This definition specifically excludes firing ranges, driver training sites and physical fitness or arrest techniques sites which may be located away from the certified program facility. (7-1-99)~~

~~e. Temporary Training Facility. A facility, located away from the certified vocational law enforcement program facility, which the certified program uses to conduct less than forty (40) hours of mandated training per year. This definition specifically excludes firing ranges, driver training sites and physical fitness or arrest techniques sites which may be located away from the certified program facility. (7-1-99)~~

~~f. POST Council Certification Committee. The POST Council Certification Committee reviews the certification and recertification standards and recommends changes as necessary to the POST Council. This committee also reviews the circumstances and facts surrounding the non-compliance with certification standards by any certified vocational law enforcement program in order to make a recommendation to POST Council. This committee is composed of five (5) members selected by the POST Council Chairman. (7-1-99)~~

~~g. Directive. A written statement of policy procedure or rule/regulation addressing certification standards, and made available for inspection and guidance in the operation of the program. (7-1-99)~~

~~**04. Administration. (7-1-99)**~~

~~a. A vocational law enforcement program shall have an advisory board or committee composed of criminal justice executives of several area agencies/organizations, including the POST Executive Director or his designee. (7-1-99)~~

~~b. Vocational law enforcement programs shall maintain a training record/file on each student attending the program. This file shall include records pertaining to that student while attending that program sufficient to document that all performance objectives have been successfully completed. (7-1-99)~~

~~e. Vocational law enforcement programs shall maintain an administrative file that pertains to each class it conducts. This file shall include curriculum/schedule, attendance records, discipline records, counseling records, test answer sheets, and course evaluation or summary. This file may be combined with the training record/file on each student file specified above at the discretion of the program. (7-1-99)~~

~~d. Vocational law enforcement programs shall have a policy on the minimum and maximum number of students in classes. (7-1-99)~~

~~i. Mandated training will not be conducted for classes of less than six (6) students nor more than thirty five (35). (7-1-99)~~

~~ii. Exceptions to this standard may be granted by the POST Training Specialist in the region where the vocational law enforcement program is located. A written request shall be submitted to the POST Training Specialist and shall specify the reasons why an exception is necessary. The POST Training Specialist shall evaluate the request to determine if sufficient cause exists to grant an exception. If an exception is granted, the POST Training Specialist will document the exception in writing to the program coordinator and forward a copy to the Executive Director of Peace Officer Standards and Training. (7-1-99)~~

~~e. Vocational law enforcement programs shall comply with all administrative procedures set forth in applicable rules promulgated by the POST Council. (7-1-99)~~

~~f. Vocational law enforcement programs shall comply with all requirements of the Idaho Department of Education and the individual institution. (7-1-99)~~

~~g. Vocational law enforcement programs shall have a policy for post graduation evaluation of entry-level training. (7-1-99)~~

~~i. Shall occur from six (6) months to one (1) year after leaving the program. (7-1-99)~~

~~ii. Shall assess the job-relatedness of entry-level training. (7-1-99)~~

~~**05. Facility. (7-1-99)**~~

~~a. A vocational law enforcement program shall have scheduled access to a firing range which shall include: (7-1-99)~~

~~i. Shotgun/tear gas capabilities; (7-1-99)~~

~~ii. Adequate facilities for courses prescribed by POST Council; and (7-1-99)~~

~~iii. Adequate storage facility for ammunition at the vocational law enforcement program or range. Facility should have posted signs in accordance with law and should be protected from illegal entry and fire. (7-1-99)~~

- ~~b. Ranges shall have at least five (5) firing points if used for basic training. (7-1-99)~~
- ~~e. Vocational law enforcement programs shall be adequately equipped with first aid equipment. (7-1-99)~~
- ~~06. **Instruction.** (7-1-99)~~
- ~~a. All instructors must be POST-certified instructors and/or meet the minimum standards established by POST Council within a school calendar year. (7-1-99)~~
- ~~b. The vocational law enforcement program shall establish quality control methods for ensuring adequate instruction, to include: (7-1-99)~~
- ~~i. Written student evaluations of instructors; and (7-1-99)~~
- ~~ii. Lesson plans for all training courses required to be on file at the vocational law enforcement program. (7-1-99)~~
- ~~(1) Review of curricula and lesson plans to ensure they are in compliance with POST Council requirements. (7-1-99)~~
- ~~(2) Lesson plans shall be updated on an annual basis. (7-1-99)~~
- ~~iii. Periodic and random monitoring of instruction provided to ensure that: (7-1-99)~~
- ~~(1) Lesson plans are being used; (7-1-99)~~
- ~~(2) Appropriate audio-visual aids are available and used properly; (7-1-99)~~
- ~~(3) The instructor is holding student attention; (7-1-99)~~
- ~~(4) The instructor is in control of the students; (7-1-99)~~
- ~~(5) The instructor is addressing the objectives; and (7-1-99)~~
- ~~(6) Classroom conditions such as lighting, noise levels and temperature are acceptable. (7-1-99)~~
- ~~iv. Appropriate action is taken to follow up on any student complaints regarding instructors or the training process. (7-1-99)~~
- ~~v. Results of testing are analyzed and evaluated. (7-1-99)~~
- ~~e. The vocational law enforcement program shall maintain an up-to-date copy of the POST Rules Manual provided by Peace Officer Standards and Training. (7-1-99)~~
- ~~d. The vocational law enforcement program shall comply with all instruction standards established by POST. (7-1-99)~~
- ~~07. **Satellite Facility.** (7-1-99)~~
- ~~a. A satellite facility is a facility, located away from the certified vocational law enforcement program facility, which the certified program uses to conduct more than forty (40) hours of mandated training per year. This definition specifically excludes firing ranges, driver training sites, and physical fitness or arrest techniques sites which may be located away from the certified program facility. (7-1-99)~~
- ~~i. All satellite facilities where mandated training is conducted must meet the standards in the facilities portion of this policy. (7-1-99)~~

~~ii. Satellite facilities must be approved by POST as meeting the standards for facilities before any credit can be awarded for mandated training which is conducted in such a facility. (7-1-99)~~

~~**08. Conduct and Behavior. (7-1-99)**~~

~~a. Any vocational law enforcement student not meeting the POST minimum standards for employment will not be given the final test. (7-1-99)~~

~~b. The vocational law enforcement program shall have a policy on integrity. This should include dishonesty, untruthfulness, or discourtesy to include acts of academic dishonesty and plagiarism. This policy must be reviewed with all vocational law enforcement students upon entry into the program. (7-1-99)~~

~~e. The vocational law enforcement program shall have a policy on social contact between staff, instructors, and students. Associations with vocational school staff must be professional in nature at all times. Students should be expressly prohibited from having social contact, either on or off campus, with any vocational staff or instructor(s) at the vocational law enforcement program. (7-1-99)~~

~~d. Other standards for conduct and behavior that shall be addressed by the vocational law enforcement program shall include: (7-1-99)~~

~~i. Disrupting class; (7-1-99)~~

~~ii. Misconduct; (7-1-99)~~

~~iii. Truthfulness; (7-1-99)~~

~~iv. Courtesy; (7-1-99)~~

~~v. Bigotry; (7-1-99)~~

~~vi. Sexual harassment; (7-1-99)~~

~~vii. Regard for the safety of others; and (7-1-99)~~

~~viii. Sleeping in class. (7-1-99)~~

**322. DEFINITIONS.**

**01. POST Assessment Team.** The two POST Regional Training Specialists not currently assigned to the region where the vocational law enforcement program is located. ( )

**02. Program Coordinator.** An individual designated by the college/university who is responsible for the vocational law enforcement program. ( )

**03. Satellite Facility.** A facility located away from the certified vocational law enforcement program facility which the certified program uses to conduct training. This includes firing ranges, driver training sites, and physical fitness or arrest techniques sites which may be located away from the certified program facility. ( )

**04. Vocational Law Enforcement Program.** A college/university vocational law enforcement program certified by the Idaho Department of Education with a curriculum based on POST performance objectives for basic training. The curriculum must include the minimum instruction in each topic as described in Subsections 075.02.a. and/or 077.02.a. of these rules. ( )

**05. Vocational Law Enforcement Program Facility.** A facility in which training programs are conducted. It houses classrooms and offices for instructors and staff. Other facilities such as a firing range, driver training track, multipurpose training areas, library and satellite locations are considered to be part of such facility but

need not be located at the same site. ( )

**323. GENERAL PROVISIONS.**

**01. Purpose.** Vocational law enforcement program certification is established for the purpose of recognizing those programs whose curriculum is equivalent to the POST Basic Patrol Academy and/or POST Basic Detention Academy. ( )

**02. Eligibility.** To be eligible for vocational law enforcement program certification, the applying entity must be in compliance with all standards established by the Idaho Department of Education for such programs, the curriculum requirements of Subsections 075.02.a. and/or 077.02.a. of these rules, and the requirements in Sections 321 through 329 of these rules. ( )

**03. Assessment Form.** All assessments must be completed on the prescribed form as provided by the POST Council. ( )

**04. Assessment Visits.** Entities seeking vocational law enforcement program certification and those programs already certified will be subject to scheduled and unscheduled visits by the POST Regional Training Specialists and other members of the Peace Officer Standards and Training Council during which adherence to certification standards will be assessed. ( )

**05. Expiration of Certification.** Vocational law enforcement program certification will remain valid for two (2) years. ( )

**06. Renewal of Certification.** To maintain certified status, a vocational law enforcement program must successfully complete the recertification process prior to the expiration of their certification. Upon renewal, the vocational law enforcement program certification will remain valid for another two (2) years. If a program is granted temporary certification, upon approval of full certification status, the program's certification will expire on the date it would have expired had full certification initially been granted at time of renewal. ( )

**324. PROCEDURES.**

**01. Permission to Proceed.** An entity seeking vocational law enforcement program certification must receive permission to proceed from the Peace Officer Standards and Training Council prior to beginning the certification process. ( )

**02. Assessment.** Upon complying with the requirements of Sections 321 through 329 of these rules, the program coordinator for the entity seeking vocational law enforcement program certification must contact a POST Regional Training Specialist to schedule a comprehensive on-site assessment by a POST Assessment Team. ( )

**a.** Upon completion of an on-site assessment, if it is determined that one (1) or more of the requirements for program certification have not been met, the applying entity will be given ninety (90) days to correct the deficiency. Written notification of the requirement(s) not met and the date scheduled for a second on-site assessment of the program will be provided to the program coordinator by the POST Regional Training Specialist. ( )

**b.** Upon completion of an on-site assessment, if it is determined that all requirements for program certification have been met, the POST Council will issue a certificate to the applying entity. ( )

**325. CERTIFIED VOCATIONAL LAW ENFORCEMENT PROGRAM.**

**01. Assessment.** A POST Assessment Team will contact the program coordinator of the certified vocational law enforcement program to set up a comprehensive on-site assessment. A minimum of two weeks prior notice must be given. ( )

**02. Failure to Maintain Compliance with Certification Standards.** If at any time it is determined

that a POST-certified vocational law enforcement program does not meet one (1) or more of the requirements for program certification, the POST Council may suspend the program certification and issue a temporary certification pending corrective action. The vocational law enforcement program will be given a maximum of ninety (90) days from the initial assessment date to correct the deficiency unless an extension is granted by the POST Council. The program coordinator will receive written notification of the requirement(s) not met, and will be contacted by a POST Regional Training Specialist to schedule an on-site reassessment of the program. ( )

**03. Reassessment.** A reassessment of the program will be conducted by a POST Assessment Team. If one (1) or more of the certification standards still have not been met, the administrator and/or advisory board chairman of the vocational law enforcement program will be notified in writing that upon reassessment the standards still have not been met. The POST Council will review the reassessment report and determine whether additional time to correct the deficiency will be granted. ( )

**04. Second Reassessment.** If additional time to correct the deficiency is granted, a POST Assessment Team will conduct a second reassessment. If one (1) or more of the certification standards still have not been met, the POST Council will review the findings of the second reassessment. The vocational law enforcement program will be given the opportunity to provide verbal testimony. After reviewing the information, the POST Council will determine whether the program should be certified. ( )

**326. REQUIREMENTS.**

**327. ADMINISTRATION.**

**01. POST Council Administrative Rules.** The vocational law enforcement program must maintain access to a current copy of the POST Council's Administrative Rules. ( )

**02. Advisory Board/Committee.** The vocational law enforcement program must have an advisory board/committee comprised of the POST Executive Director or his designee and criminal justice executives from several area agencies/organizations representative of the region the vocational program serves. ( )

**a.** The advisory board/committee must elect a chairman and vice-chairman from among the agency heads on the board/committee. The terms of office should be initially staggered. No chairman or vice-chairman may serve in that capacity for longer than four (4) consecutive years. ( )

**b.** The chairman or vice-chairman is responsible for scheduling and setting the agendas for all advisory board/committee meetings as well as for working with the program coordinator and/or administration of the vocational law enforcement program. The chairman or vice-chairman may perform other duties as necessary. ( )

**03. Waiver Requests.** The chairman of the advisory board/committee may request a waiver from the POST Executive Director for a student who, more than two (2) years prior to application, was convicted of DUI; a misdemeanor other than a sex crime, crime of deceit, or drug offense; driving without privileges; or had his driver's license suspended. ( )

**a.** The advisory board/committee chairman must conduct a thorough background investigation to include the review of all police and court documents, including arrest reports and court dispositions, and a written explanation from the student fully describing the circumstances and disposition of each arrest. ( )

**b.** The advisory board/committee chairman has sole discretion in determining whether a waiver should be requested. The advisory board/committee may be afforded an appeal at the chairman's discretion or if the advisory board/committee has a policy in place. ( )

**c.** If the advisory board/committee chairman determines that a waiver should be pursued, he must submit a written request along with all documentation to the POST Executive Director. The request must indicate that the advisory board/committee is aware of the arrest, has investigated the circumstances surrounding the arrest, and that he recommends approval of a waiver. ( )

**d.** If the POST Executive Director denies a request for a waiver, the decision is final unless the student



obtains employment with an Idaho law enforcement agency and that agency requests a waiver from the POST Council. ( )

**328. RECORDS.**

**01. Course File.** The vocational law enforcement program must maintain an administrative file on each course it conducts. The file must include the curriculum, the schedule of classes, attendance records, discipline records, counseling records, tests with answer sheets, course summary, and course evaluations. The course file may be combined with the respective student training files at the discretion of the program. ( )

**02. Application to Attend.** Each student must submit an application to attend the vocational law enforcement program and must comply with the policies and minimum standards of both the POST Council and the college. ( )

**03. Training File.** The vocational law enforcement program must maintain a training file on each student attending the program. The file must include sufficient records to document whether the student has successfully completed all performance objectives. The records must be computerized and maintained in a secure database while the student is attending the program. The student training files may be combined with the respective course file at the discretion of the program. ( )

**04. Instructor File.** The vocational law enforcement program must maintain an administrative file on each instructor who teaches for the program. ( )

**a.** For law enforcement personnel, the file must include a copy of the instructor's POST instructor certificate for each subject the instructor teaches, a signed copy of the POST instructor code of ethics, a copy of student evaluations of the instructor for the past year, a copy of the instructor's training record from the past year or some other acceptable documentation that shows that the instructor's instructor certificate is still valid, and any other pertinent information related to the instructor's instructor certification status and/or performance. ( )

**b.** For non-law enforcement personnel, the file must include a copy of the instructor's resume, a signed copy of the POST instructor code of ethics, a copy of student evaluations of the instructor for the past year, a copy of the instructor's training record from the past year, and any other pertinent information related to the instructor's performance. ( )

**329. MINIMUM ATTENDANCE.**

The vocational law enforcement program must have a policy on the minimum number of students in a class. Mandated training will not be conducted for a class of less than six (6) students. Exceptions may be considered by the POST Council upon receipt of a written request from the program coordinator of the vocational law enforcement program specifying why an exception is needed. The POST Council will review the request and determine if sufficient cause exists to grant an exception. Written notification of approval or denial of the request will be provided to the program coordinator. ( )

**330. POST-GRADUATION EVALUATIONS.**

The vocational law enforcement program must conduct post-graduation evaluations of their entry-level training. The evaluations must occur from six (6) to twelve (12) months after students leave the program, and must assess the job-relatedness of the training provided. ( )

**331. FACILITIES.**

**01. First Aid Equipment.** All facilities utilized by the vocational law enforcement program must be adequately equipped with first aid equipment. ( )

**02. Secure Storage for Ammunition.** The vocational law enforcement program must have access to an adequate, secure storage facility in which to store ammunition. The facility may be located at the vocational law enforcement program or at the firing range. The facility must have posted signs in accordance with law and must be protected from illegal entry and fire. ( )

**03. Firing Range.** The vocational law enforcement program must have scheduled access to a firing range that has: ( )

**a. Shotgun/less lethal weapons capabilities:** ( )

**b. Adequate facilities for classes prescribed by the POST Council; and** ( )

**c. At least five (5) firing points if used for basic training.** ( )

**332. INSTRUCTION.**

The vocational law enforcement program must comply with all instruction standards established by POST Council and must establish quality control methods to insure adequate instruction is provided. ( )

**01. Evaluation of Instructors.** The students must be given the opportunity to complete written evaluations of every instructor. ( )

**02. Lesson Plans.** ( )

**a. The vocational law enforcement program must have a lesson plan on file for every training class.** ( )

**b. Lesson plans and curricula must be reviewed on a regular basis and updated if necessary to ensure compliance with POST Council requirements.** ( )

**03. Monitoring of Instruction.** The vocational law enforcement program must conduct periodic and random monitoring of the instruction provided to insure that: ( )

**a. Lesson plans are being used;** ( )

**b. Objectives are being addressed;** ( )

**c. Appropriate audio-visual aids are available and being used properly;** ( )

**d. The instructor is in control of the class and is holding the students' attention; and** ( )

**e. Classroom conditions such as lighting, noise levels, and temperature are acceptable.** ( )

**04. Follow Up.** The vocational law enforcement program must take appropriate action to follow up on any student complaint regarding an instructor or the training process. ( )

**05. Testing Results.** The vocational law enforcement program must analyze and evaluate testing results. ( )

**333. CONDUCT AND BEHAVIOR.**

**01. POST Minimum Standards for Employment.** Any vocational law enforcement student that does not meet the Minimum Standards for Employment as provided in Sections 050 through 063 of these rules will not be given the final test unless they have been granted a waiver in accordance with Subsection 327.03 of these rules. ( )

**02. Code of Conduct/Code of Ethics.** Every vocational law enforcement student must attest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as found in Subsection 091.04 of these rules and the Law Enforcement Code of Ethics as adopted by the International Association of Chiefs of Police, 515 North Washington Street, Alexandria, VA 22314. ( )

**03. Integrity.** The vocational law enforcement program must have a policy on integrity. This policy must clearly state that dishonesty, including acts of academic dishonesty and plagiarism; untruthfulness; or

discourtesy will not be tolerated. This policy must be reviewed with all vocational law enforcement students upon entry into the program. ( )

**04. Social Contact.** The vocational law enforcement program must have a policy expressly prohibiting students from having social contact, either on or off campus, with any vocational law enforcement program staff member or instructor. Associations between students and vocational law enforcement program staff members or instructors must be professional in nature at all times. ( )

**05. Other Standards of Conduct and Behavior.** The vocational law enforcement program must address other standards of conduct and behavior that reflect good taste, courtesy, consideration, and respect for the rights and privileges of others. Any conduct detrimental to the conduct, efficiency, or discipline of the vocational law enforcement program must be prohibited. ( )

~~322. -- 333.~~ (RESERVED).

~~334. -- 340.~~ (RESERVED).

~~334~~**341. STANDARDS FOR CONDUCT AND BEHAVIOR OF POST BASIC TRAINEES.**

**01. Objective.** To state in general terms and standards of conduct required of POST Basic trainees; designate the authority for establishing specific requirements of attendees; and make reference to the specific requirements and their acceptance by attendees. (7-1-93)

**02. Policy Statement.** (7-1-93)

**a.** As representatives of law enforcement agencies, all trainees are expected to conduct themselves in a manner which will bring credit to the profession. Standards of behavior must reflect good taste, courtesy, consideration and respect for the rights and privileges of fellow trainees and the Idaho Police Academy faculty and community. (7-1-93)

**b.** Dishonesty, untruthfulness, or discourtesy must not be tolerated. Any conduct detrimental to the conduct, efficiency or discipline of the academy, whether or not specifically stated in the instructions, is prohibited and can be cause for disciplinary action or dismissal from the academy. (7-1-93)

**c.** For any infraction of the rules, while attending the Academy, the trainee's chief, sheriff, or department head will be made aware of such infraction. (7-1-93)

**d.** The POST Council shall determine the specific requirements relating to residency, equipment and supplies, and conduct while at the academy. These requirements will accompany the letter of acceptance to the applicant's agency. (7-1-93)

**e.** Registration at the academy by the attendee shall constitute acceptance by such attendee of the specific requirements and of the general standards stated above. (7-1-93)

~~342. -- 350.~~ (RESERVED).

~~335~~**351. SELF-SPONSORED STUDENT PROGRAM SELECTION STANDARDS.**

**01. Requirement.** Every Self-Sponsored Student shall meet the minimum standards for employment (Sections 050 through 063) of this manual. (3-20-97)

**02. Procedures.** (3-20-97)

**a.** The applicant shall be required to complete and submit to the POST Council a comprehensive application and personal history packet, along with two (2) sets of fingerprints on FBI applicant fingerprint cards. A non-refundable application fee is required and must accompany the application. (3-20-97)

**b.** In order to determine the applicant's suitability as a Self-Sponsored Student, the POST Council shall conduct a thorough criminal and personal history background investigation. The fingerprint cards shall be submitted to the Bureau of Criminal Identification, which shall use one (1) set to conduct a statewide search, and shall forward the other set to the FBI for a national criminal history record check. All results of the background investigation will be considered confidential and processed accordingly. (3-20-97)

**c.** The applicant must also successfully complete a polygraph, psychological evaluation, physical agility test, and a Police Officer Selection written examination approved by POST Council. (3-20-97)

~~336~~352. -- 359. (RESERVED).

## IDAPA 11 - IDAHO STATE POLICE

### 11.11.02 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE DETENTION OFFICERS

DOCKET NO. 11-1102-0501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, 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 September 21, 2005.

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:

Add training and certification requirements for part-time Juvenile Detention Officers.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting of the rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael N. Becar at (208) 884-7251.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 25th day of July, 2005.

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

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1102-0501

**010. DEFINITIONS.**

**01. Basic Juvenile Detention Academy.** A basic course of instruction for Juvenile Detention Officers as recognized by POST Council. (3-30-01)

**02. Challenge Exam.** A test to determine a person's competence for waiver of the basic Juvenile Detention Academy. (3-30-01)

**03. Juvenile Detention Center.** A facility designed to temporarily detain juveniles who require secure custody for their own or the community's protection in physically restricting facilities. (3-30-01)

**04. Juvenile Detention Officer.** Any employee of a juvenile detention center which is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (3-30-01)

**05. Juvenile Training Council.** An advisory group to the POST Council that is represented by the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention Academy. (3-30-01)

**06. Mandatory Certification.** To issue a certificate to a juvenile detention officer based upon successful completion of the mandatory training requirements established by POST Council. (3-30-01)

**07. Part-Time Juvenile Detention Officer.** Any employee of a juvenile detention center which is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. ( )

**07g. Voluntary Certification.** To issue a certificate to a juvenile detention officer based upon successful completion of the voluntary training requirements established by POST Council. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**033. PART-TIME JUVENILE DETENTION OFFICER CERTIFICATION.**

**01. Certification.** The following dates govern mandatory certification: ( )

**a.** If employed after October 1, 2005, any part-time juvenile detention officer must be certified by obtaining mandatory certification from the Peace Officer Standards and Training Council within one (1) year of the date the officer was first employed as a part-time juvenile detention officer. ( )

**b.** Part-time juvenile detention officers employed prior to October 1, 2005, must comply with the training and certification provisions of Section 033 by September 30, 2007. ( )

**02. Minimum Standards.** Each applicant must meet the minimum standards for employment and training as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," with the exception of height, weight, fitness, and physical disability which will be left to the discretion of the employing agency. ( )

**03. Eligibility.** To be eligible for the award of the part-time juvenile detention officer certificate, each applicant must meet the definition of part-time juvenile detention officer as defined in Subsection 010.07. ( )

**04. Supervision.** All certified part-time juvenile detention officers must be under the direct supervision of a certified full-time juvenile detention officer. This section is intended to limit the activity of a part-time juvenile detention officer. Each agency must draft its own individual agency policy in reference to the supervision of its certified part-time juvenile detention officers and that policy must be kept on file within each agency. ( )

**05. Limitation.** A part-time juvenile detention officer's certification will be effective only during those periods when he is formally assigned by the appointing agency to perform the duties of a certified part-time juvenile detention officer. ( )

**034. THE PART-TIME JUVENILE DETENTION OFFICER CERTIFICATE.**

The following requirements are necessary for award of the part-time juvenile detention officer certificate: ( )

**01. Part-Time Juvenile Detention Officer Packet.** Any part-time juvenile detention officer desiring part-time juvenile detention officer certification must submit a completed POST Part-Time Juvenile Detention Officer Certification Packet prior to attending any part-time juvenile detention officer training. ( )

**02. Employment.** The applicant must have been employed by the agency at least six (6) months (may include part-time juvenile detention officer training time) prior to being awarded the part-time juvenile detention officer certification. Probationary period may be extended by the agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time must be continuous with the department the officer is employed with when applying for certification. Probationary period may not extend over one (1) year for certification purposes. ( )

**03. Basic Training.** The applicant must have completed the POST Part-Time Juvenile Detention Officer Training and must have passed the POST part-time juvenile detention officer certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination with a minimum score of seventy-five percent (75%). The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. ( )

**a.** Any part-time juvenile detention officer desiring part-time juvenile detention officer certification must successfully complete the POST Council-approved Part-Time Juvenile Detention Officer Training of no less than forty (40) hours, to include, but not be limited to, items outlined in IDAPA 05.01.02, "Rules of the Idaho Department of Juvenile Corrections, Secure Juvenile Detention Facilities," Subsection 212.05. ( )

**b.** Part of the core curriculum may be taught by uncertified instructors provided the high liability classes such as Legal and Liability Issues, Verbal Judo, and Appropriate Use of Force are taught by POST-certified instructors. ( )

**c.** The officer will be allowed two (2) attempts to pass the examination with a minimum score of seventy-five percent (75%) or better. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. ( )

**d.** The Council will accept written certification from the agency head as proof that a part-time juvenile detention officer has successfully completed the required core curriculum. ( )

**04. Part-Time Juvenile Detention Orientation Training.** Successful completion of supervised part-time juvenile detention orientation training in the employing department is required. Evidence of such training must be submitted by applicant's employer to POST Council. ( )

**05. Applications for Certification.** All applications for award of the Part-Time Juvenile Detention Officer Certificate must be completed on the prescribed form "Application for Certification" as provided by the POST Council. The Application for Certification form must be submitted by the officer/applicant to the applicant's department head, who will forward the application to the Council. Certificates will be issued to the department head for award to the applicant. ( )

**06. Retaining Certification.** A certified part-time juvenile detention officer must work sixty (60) hours annually in a juvenile detention officer capacity to retain certification. Documentation of hours worked must be

kept on file at the appointing agency. Any part-time juvenile detention officer working less than sixty (60) hours annually must complete all requirements set forth in Section 033 to be recertified. ( )

**07. Decertification.** The Council may decertify any part-time juvenile detention officer in the same manner as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.03. ( )

**08. Full-Time Juvenile Detention Officer Status.** To be certified as a full-time juvenile detention officer, a certified part-time juvenile detention officer, upon appointment to full-time juvenile detention officer status, must comply with the requirements in Sections 030 and 031. ( )

~~033~~**035. -- 999. (RESERVED).**



## IDAPA 11 - IDAHO STATE POLICE

### 11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-0501 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2005.

**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 19-5107, 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 September 21, 2005.

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

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

This rule establishes the training and certification requirements for Correction Officers and Adult Probation and Parole Officers. This is a new mandate for POST which took affect July 1, 2005.

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

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

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting of the rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Michael N. Becar at (208) 884-7251.

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 September 28, 2005.

DATED this 25th day of July, 2005.

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

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1104-0501**

**IDAPA 11**  
**TITLE 11**  
**CHAPTER 04**

**11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND  
TRAINING COUNCIL FOR CORRECTION OFFICERS  
AND ADULT PROBATION AND PAROLE OFFICERS**

**000. LEGAL AUTHORITY.**

**01. Section 20-214, Idaho Code.** Pursuant to Section 20-214, Idaho Code, the State Board of Correction shall have power and authority to specify the training of such assistants, officers and other persons necessary for the proper and efficient administration of the Department of Correction and the Parole and Probation system. (7-1-05)T

**02. Section 19-5109(g), Idaho Code.** Pursuant to Section 19-5109(g), Idaho Code, the Peace Officer Standards and Training Council may, upon recommendation of the Correction Standards and Training Council, implement minimum basic training and certification standards for correction officers and for adult probation and parole officers. (7-1-05)T

**03. Section 20-241A(3)(c), Idaho Code.** Pursuant to Section 20-241A(3)(c), Idaho Code, any contract between the State Board of Correction and a private prison contractor providing for the housing, care, and control of inmates shall require that the private prison contractor provide training to its personnel to a level acceptable to the Idaho Department of Correction. The Idaho Department of Correction may provide training to the personnel of a private prison contractor and may charge a reasonable fee for the training, not to exceed the cost of training. (7-1-05)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules will be cited as IDAPA 11.11.04, "Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers," IDAPA 11, Title 11, Chapter 04. (7-1-05)T

**02. Scope.** These rules constitute the minimum standards of training, education, employment, and certification of correction officers and adult probation and parole officers in Idaho. (7-1-05)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written statements which might pertain to the interpretation of these rules or to the documentation of compliance with these rules will be available for public inspection and copying at cost to the extent allowed by Title 9, Chapter 3, Idaho Code, at the Department of Correction, 1299 N. Orchard, Suite 110, P.O. Box 83720, Boise, Idaho, 83720-0018 and at the Idaho State Police, Peace Officer Standards and Training, 700 S. Stratford Dr., P.O. Box 700, Meridian, Idaho, 83680-0700. (7-1-05)T

**003. ADMINISTRATIVE APPEALS.**

Rules of procedure in contested cases will be governed by the Administrative Procedures Act. (Title 67, Chapter 52, Idaho Code). (7-1-05)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (7-1-05)T

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

**01. Idaho State Police, Peace Officer Standards and Training.** The principal place of business of the Idaho State Police, Peace Officer Standards and Training, is in Meridian, Idaho. The office is located at 700 South Stratford Drive, Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Peace Officer Standards and Training Academy, P.O. Box 700, Meridian, Idaho 83680-0700. The telephone of the office is (208) 884-7250. The facsimile number of the office is (208) 884-7295. (7-1-05)T

**02. Idaho Department of Correction.** The principal place of business of the Idaho Department of Correction is in Boise, Idaho. The office is located at 1299 North Orchard, Suite 110, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Idaho Department of Correction, P.O. Box 83720, Boise, Idaho 83720-0018. The telephone of the office is (208) 658-2000. The facsimile number of the office is (208) 327-7496. (7-1-05)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (7-1-05)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Adult Probation and Parole Officer.** Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (7-1-05)T

**02. Basic Adult Probation and Parole Academy.** A basic course of instruction for Adult Probation and Parole Officers as recognized by POST Council. (7-1-05)T

**03. Basic Correction Academy.** A basic course of instruction for Correction Officers as recognized by POST Council. (7-1-05)T

**04. Correction Officer.** Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the safety, care, protection, and monitoring of offenders housed in the correction facility. (7-1-05)T

**05. Correction Standards and Training Council.** An advisory group to the POST Council that is comprised of members from academia and law enforcement agencies. The purpose of the Correction Standards and Training Council is to advise POST Council in the planning, development, and operation of the Basic Correction Academy and the Basic Adult Probation and Parole Academy. (7-1-05)T

**011. -- 020. (RESERVED).**

**021. CERTIFICATION OF CORRECTION AND ADULT PROBATION AND PAROLE OFFICERS.**

**022. GENERAL PROVISIONS.**

**01. POST Basic Correction Academy Costs for Personnel of Private Prison Contractors.** Pursuant to Section 20-241A(3)(c), Idaho Code, the Idaho Department of Correction may provide training to personnel of private prison contractors and charge a fee not to exceed the cost of training. Since the Basic Correction Academy is conducted by the Peace Officer Standards & Training Council, any fees collected by the Idaho Department of Correction for attendance at the POST Basic Correction Academy by personnel of private prison contractors must be submitted to the POST Council. (7-1-05)T

**02. Property.** Certificates and awards remain the property of the Council and are only valid as long as the officer is appointed as an Idaho correction or adult probation and parole officer. (7-1-05)T

**03. Eligibility.** To be eligible for the award of a Basic Correction Officer certificate, each applicant

must be a full-time correction officer or a professional member of the POST Council staff. To be eligible for the award of a Basic Adult Probation and Parole Officer certificate, each applicant must be a full-time adult probation and parole officer or a professional member of the POST Council staff. (7-1-05)T

**04. Applications.** All applications for award of certification must be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (7-1-05)T

**05. Submission.** The Application for Certification form must be submitted by the applicant to his agency head who must review it for accuracy prior to signing it and forwarding it to the Council. Certificates will be issued to the agency head for award to the applicant. (7-1-05)T

**06. Decertification.** The Council may decertify any correction or adult probation and parole officer in the same manner as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.03. (7-1-05)T

**07. Minimum Standards.** Each applicant must meet the minimum standards for employment as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Sections 050 through 063, with the exception of hearing, vision, and physical agility. (7-1-05)T

**a. Hearing.** An applicant for correction officer certification or adult probation and parole officer certification must have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver to the above may be considered by the Council if accompanied by an audiologist's or ear, nose, and throat physician's certification that the applicant's condition would not jeopardize or impair the applicant's ability to perform the duties of a correction or adult probation and parole officer. (7-1-05)T

**b. Vision.** (7-1-05)T

**i.** An applicant for correction officer certification or adult probation and parole officer certification must possess normal binocular coordination; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision must be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must be no pathology of the eye; applicant must possess seventy percent (70%) proficiency of the Dvorine or equivalent color discrimination test. Waiver to the above may be considered by the Council if accompanied by a vision specialist's certification that the applicant's condition would not jeopardize or impair the applicant's ability to perform the duties of a correction or adult probation and parole officer. (7-1-05)T

**ii.** The applicant must have uncorrected vision in each eye of no worse than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). Waiver to the above may be considered by the Council if accompanied by a vision specialist's certification that the applicant's condition would not jeopardize or impair the applicant's ability to perform the duties of a correction or adult probation and parole officer. (7-1-05)T

**c. Physical Agility.** An applicant for correction officer certification or adult probation and parole officer certification must pass the POST Physical Agility Test Battery for Correction Officers and Adult Probation and Parole officers. (7-1-05)T

**023. LAPSE OF CORRECTION OFFICER CERTIFICATION.**

The certification of any correction officer will be considered lapsed if the officer does not serve as a correction officer in Idaho for three (3) consecutive years. (7-1-05)T

**01. Three to Five Years.** A correction officer who has been out of full-time correction officer status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (7-1-05)T

**a.** Submit a POST Certification Correction Challenge Packet; (7-1-05)T

b. Attend an approved course of study in Idaho correction legal issues and pass the POST Idaho correction legal issues exam; (7-1-05)T

c. Pass the following tests administered by a POST Training Specialist: (7-1-05)T

i. The POST correction certification examination approved by the Council, conducted in the manner set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 097.02.b.; (7-1-05)T

ii. The POST Firearms Qualification Course; (7-1-05)T

iii. The POST Correction Officer Physical Agility Test Battery; and (7-1-05)T

d. Satisfactorily complete a probationary period of not less than six (6) months. (7-1-05)T

**02. Over Five Years.** A correction officer who has been out of full-time correction officer status for over five (5) years must attend the POST Basic Correction Academy or a POST-certified private prison contractor's correction officer training program to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time correction officer status, the officer was engaged in an occupation requiring correction officer training, skill, and experience. This evidence must be submitted with a POST Certification Correction Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (7-1-05)T

a. Attend an approved course of study in Idaho correction legal issues and pass the POST Idaho correction legal issues exam; (7-1-05)T

b. Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (7-1-05)T

c. Pass the following tests administered by a POST Training Specialist: (7-1-05)T

i. The POST correction certification examination approved by the Council, conducted in the manner set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 097.02.b.; (7-1-05)T

ii. The POST Firearms Qualification Course; (7-1-05)T

iii. The POST Correction Officer Physical Agility Test Battery; and (7-1-05)T

d. Satisfactorily complete a probationary period of not less than six (6) months. (7-1-05)T

**03. Over Eight Years.** A correction officer who has been out of full-time correction officer status for over eight (8) years must attend the POST Basic Correction Academy or a POST-certified private prison contractor's correction officer training program to be recertified. No waiver of this requirement will be granted by the Council. (7-1-05)T

**024. CORRECTION OFFICER CERTIFICATION.**

**01. Mandatory Certification.** Every correction officer employed on or after July 1, 2005 must be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 030.16. (7-1-05)T

**02. Voluntary Certification.** Correction officers employed prior to July 1, 2005, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements for certification as prescribed in Sections 022 and 025 of these rules. However, the requirement for

successful completion of the POST Basic Correction Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on the POST correction certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Correction Academy to be certified. This option closes on June 30, 2008. (7-1-05)T

**025. THE BASIC CERTIFICATE.**

In addition to the requirements set forth in Section 022 of these rules, the requirements in Section 025 of these rules are necessary for award of the Basic Correction Officer certificate. (7-1-05)T

**01. Probation.** The applicant must have satisfactorily completed at least a six (6) month probationary period, which may include basic correction academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time must be continuous with the agency the officer is appointed to when applying for certification. The probationary period must not extend over one (1) year for certification purposes. (7-1-05)T

**02. Basic Training.** The applicant must have satisfactorily completed: (7-1-05)T

**a.** The POST Basic Correction Academy; or (7-1-05)T

**b.** Be a graduate of a private prison contractor's correction officer training program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Correction Academy, and must have passed the POST correction certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Correction Academy to be certified. (7-1-05)T

**03. Correction Field Training Manual.** The applicant must have satisfactorily completed forty (40) hours of POST-approved correction field training. (7-1-05)T

**04. Private Prison Contractor's Correction Officer Training Program.** A graduate from an Idaho POST-certified private prison contractor's correction officer training program must also submit a completed POST Correction Officer Certification Packet. (7-1-05)T

**026. CHALLENGING THE BASIC CORRECTION ACADEMY.**

Any correction officer presently appointed by the Idaho Department of Correction or by a private prison contractor of the State Board of Correction who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a correction officer or a student who has satisfactorily completed a Basic Correction Academy equivalent to the Idaho POST Basic Correction Academy within the last three (3) years will be eligible for certification in the state of Idaho without attending the Basic Correction Academy, provided the officer: (7-1-05)T

**01. Submission of Challenge Packet.** Submits a POST Certification Correction Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; (7-1-05)T

**02. Attends and Passes Legal Course.** Attends an approved course of study in Idaho correction legal issues and passes the POST Idaho correction legal issues exam; (7-1-05)T

**03. Attends and Passes POST-Certified Courses.** Attends and passes Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (7-1-05)T

**04. Passes Required Tests.** Passes the following tests administered by a POST Training Specialist: (7-1-05)T

**a.** The POST correction certification examination approved by the Council, conducted in the manner set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 097.02.b.; (7-1-05)T

**b.** The POST Firearms Qualification Course; and (7-1-05)T

**c.** The POST Correction Officer Physical Agility Test Battery. (7-1-05)T

**05. Completes Probationary Period.** Completes his probationary period as required by Subsection 025.01. (7-1-05)T

**027. -- 030. (RESERVED).**

**031. LAPSE OF ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.**

The certification of any adult probation and parole officer will be considered lapsed if the officer does not serve as an adult probation and parole officer in Idaho for three (3) consecutive years. (7-1-05)T

**01. Three to Five Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: (7-1-05)T

**a.** Submit a POST Certification Adult Probation and Parole Challenge Packet; (7-1-05)T

**b.** Attend an approved course of study in Idaho adult probation and parole legal issues and pass the POST Idaho adult probation and parole legal issues exam; (7-1-05)T

**c.** Pass the following tests administered by a POST Training Specialist: (7-1-05)T

**i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 097.02.b.; (7-1-05)T

**ii.** The POST Firearms Qualification Course; (7-1-05)T

**iii.** The POST Adult Probation and Parole Officer Physical Agility Test Battery; and (7-1-05)T

**d.** Satisfactorily complete a probationary period of not less than six (6) months. (7-1-05)T

**02. Over Five Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over five (5) years must attend the POST Basic Adult Probation and Parole Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time adult probation and parole officer status, the officer was engaged in an occupation requiring adult probation and parole officer training, skill, and experience. This evidence must be submitted with a POST Certification Adult Probation and Parole Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: (7-1-05)T

**a.** Attend an approved course of study in Idaho adult probation and parole legal issues and pass the POST Idaho adult probation and parole legal issues exam; (7-1-05)T

**b.** Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (7-1-05)T

**c.** Pass the following tests administered by a POST Training Specialist: (7-1-05)T

**i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training

Council,” Subsection 097.02.b.; (7-1-05)T

ii. The POST Firearms Qualification Course; (7-1-05)T

iii. The POST Adult Probation and Parole Officer Physical Agility Test Battery; and (7-1-05)T

d. Satisfactorily complete a probationary period of not less than six (6) months. (7-1-05)T

**03. Over Eight Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over eight (8) years must attend the POST Basic Adult Probation and Parole Academy to be recertified. No waiver of this requirement will be granted by the Council. (7-1-05)T

### **032. ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.**

**01. Mandatory Certification.** Every adult probation and parole officer employed on or after July 1, 2005 must be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council,” Subsection 030.16. (7-1-05)T

**02. Voluntary Certification.** Adult probation and parole officers employed prior to July 1, 2005, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements for certification as prescribed in Sections 022 and 033 of these rules. However, the requirement for successful completion of the POST Basic Adult Probation and Parole Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on the POST adult probation and parole certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Adult Probation and Parole Academy to be certified. This option closes on June 30, 2007. (7-1-05)T

### **033. THE BASIC CERTIFICATE.**

In addition to the requirements set forth in Section 022 of these rules, the requirements in Section 033 of these rules are necessary for award of the Basic Adult Probation and Parole Officer certificate. (7-1-05)T

**01. Probation.** The applicant must have satisfactorily completed at least a six (6) month probationary period, which may include basic adult probation and parole academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months’ time must be continuous with the agency the officer is appointed to when applying for certification. The probationary period must not extend over one (1) year for certification purposes. (7-1-05)T

**02. Basic Training.** The applicant must have satisfactorily completed the POST Basic Adult Probation and Parole Academy. (7-1-05)T

**03. Adult Probation and Parole Field Training Manual.** The applicant must have satisfactorily completed forty (40) hours of POST-approved adult probation and parole field training. (7-1-05)T

### **034. CHALLENGING THE BASIC ADULT PROBATION AND PAROLE ACADEMY.**

Any adult probation and parole officer presently appointed by the Idaho Department of Correction who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as an adult probation and parole officer or a student who has satisfactorily completed a Basic Adult Probation and Parole Academy equivalent to the Idaho POST Basic Adult Probation and Parole Academy within the last three (3) years will be eligible for certification in the state of Idaho without attending the Basic Adult Probation and Parole Academy, provided the officer: (7-1-05)T

**01. Submission of Challenge Packet.** Submits a POST Certification Adult Probation and Parole Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer’s training; and transcripts, certificates, diplomas, or other documents that substantiate the officer’s education and experience; (7-1-05)T



- 02. Attends and Passes Legal Course.** Attends an approved course of study in Idaho adult probation and parole legal issues and passes the POST Idaho adult probation and parole legal issues exam; (7-1-05)T
- 03. Attends and Passes POST-Certified Courses.** Attends and passes Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (7-1-05)T
- 04. Passes Required Tests.** Passes the following tests administered by a POST Training Specialist: (7-1-05)T
- a.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 097.02.b.; (7-1-05)T
  - b.** The POST Firearms Qualification Course; and (7-1-05)T
  - c.** The POST Adult Probation and Parole Officer Physical Agility Test Battery. (7-1-05)T
- 05. Completes Probationary Period.** Completes his probationary period as required by Subsection 033.01 of these rules. (7-1-05)T
- 035. -- 999. (RESERVED).**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.02.10 - IDAHO REPORTABLE DISEASES

#### DOCKET NO. 16-0210-0501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-605, 39-906, 39-1003, 39-1603, 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 September 21, 2005.

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:

Language between this rule chapter and the newly-written Idaho Food Code rules have been aligned to eliminate possible sources of confusion for those who are using both chapters of rules, thereby reducing risk to the public from foodborne infections. The addition of Norovirus to the list of reportable diseases in Idaho allows public health officials to more rapidly recognize and reduce the spread of this infection, which is frequently associated with large outbreaks. The rabies section has been updated to reflect current practices in the field and match the updated incorporated reference. Finally, reporting times for Hepatitis A, Salmonella, Shigella, and Tularemia were shortened to better protect the public's health by improving the response time to these infections by public health officials. This rulemaking also conforms the text with the Department's policy of using "must" and "will" instead of "shall" in order to implement "plain language" and reduce ambiguity.

**FEE SUMMARY:** There is no fee or charge being imposed or increased in this docket.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There are no anticipated impacts to State of Idaho general funds as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is being done to align the two sets of Idaho rules.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

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. 16-0210-0501

**000. LEGAL AUTHORITY.**

~~Chapters 6, 9, 10, 16, and 43, Title 39 Sections 39-605, 39-1003, and 39-1603,~~ Idaho Code, grant authority to the Board of Health and Welfare to adopt rules protecting the health of the people of Idaho. Section 39-906, Idaho Code provides for the Director to administer rules adopted by the Board of Health and Welfare. ~~(5-3-03)( )~~

**001. TITLE AND SCOPE.**

**01. Title.** These ~~title of these~~ rules ~~shall be known as Idaho Department of Health and Welfare Rules,~~ is IDAPA 16.02.10, "Idaho Reportable Diseases". ~~(4-5-00)( )~~

**02. Scope.** These rules contain the official requirements governing the reporting, control, and prevention of reportable diseases and conditions. The purpose of these rules ~~shall be~~ is to identify, control, and prevent the transmission of reportable diseases and conditions within Idaho. ~~(4-5-00)( )~~

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations ~~that apply to~~ for these rules. ~~(4-5-00)( )~~

**003. ADMINISTRATIVE APPEALS.**

~~All contested cases shall be~~ Administrative appeals are governed by the provisions of IDAPA 16.05.03. "Rules Governing Contested Case Proceedings and Declaratory Rulings". ~~(4-5-00)( )~~

**004. DEFINITIONS.**

For the purposes of this chapter, the following definitions apply. (12-31-91)

**01. Airborne Precautions.** Methods used to prevent airborne transmission of infectious agents, as described in "Guideline for Isolation Precautions in Hospitals," ~~as defined incorporated in Subsection 005-07 of these rules.~~ ~~(4-5-00)( )~~

**02. Approved Fecal Specimens.** Specimens of feces obtained from the designated person who has not taken any antibiotic orally or parenterally for two (2) days prior to the collection of the fecal specimen. The specimen must be collected and transported to the laboratory in a manner appropriate for the test to be performed. (9-21-92)

**03. Bite or Other Exposure to Rabies.** For the purpose of these rules, bite or bitten ~~shall~~ means that the skin of the person or animal has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin. The term "exposure" ~~shall~~ also includes contact of saliva with any mucous membrane. In the case of bats, even in the absence of an apparent bite, scratch, or mucous membrane contact, exposure may have occurred, as described in "Human Rabies Prevention -- United States, 1999" ~~as defined incorporated in Subsection 005-03 of these rules.~~ ~~(4-5-00)( )~~

**04. Board.** The Idaho State Board of Health and Welfare as described in Section 56-1005, Idaho Code. (12-31-91)

**05. Cancers.** Cancers that are designated reportable include the following as described in Section 57-1703, Idaho Code: (4-5-00)

**a.** In-situ or malignant neoplasms, 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. (4-5-00)

**b.** Benign tumors of the brain, meninges, pineal gland, or pituitary gland. (9-21-92)

**06. Carrier.** A person who can transmit a communicable disease to another person but may not have symptoms of the disease. (12-31-91)

- 07. Case.** A person who has been diagnosed as having a specific disease or condition by a physician or other health care provider. The diagnosis may be based on clinical judgment, or on laboratory evidence, or on both criteria. Individual case definitions are described in "Case Definitions for Infectious Conditions Under Public Health Surveillance," *as defined* incorporated in Subsection 005-02 of these rules. (4-5-00)(\_\_\_\_)
- 08. Cohort System.** A communicable disease control mechanism in which cases having the same disease are temporarily segregated to continue to allow supervision and structured attendance in a day care facility. (9-21-92)
- 09. Communicable Disease.** A disease which may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means which may result in infection, illness, disability, or death. (12-31-91)
- 10. Contact.** A person who has been exposed to a case or carrier of a communicable disease under circumstances in which he or she could possibly contract the disease or infection. (12-31-91)
- 11. Contact Precautions.** Methods used to prevent contact transmission of infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals," *as defined* incorporated in Subsection 005-07 of these rules. (4-5-00)(\_\_\_\_)
- 12. Day Care.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes as described by Section 39-1102, Idaho Code. (5-3-03)
- 13. Department.** The Idaho Department of Health and Welfare. (12-31-91)
- 14. District.** Any one of the District Health Departments as established by Section 39-409, Idaho Code. (12-31-91)
- 15. District Director.** Any one of the directors of a district health department appointed by the District Board as described in Section 39-413, Idaho Code. (9-21-92)
- 16. Droplet Precautions.** Methods used to prevent droplet transmission of infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals," *as defined* incorporated in Subsection 005-07 of these rules. (4-5-00)(\_\_\_\_)
- 17. Extraordinary Occurrence of Illness Including Clusters.** Rare diseases and unusual outbreaks of illness which may be a risk to the public. Illnesses related to drugs, foods, contaminated medical devices, contaminated medical products, illnesses related to environmental contamination by infectious or toxic agents, unusual syndromes, or illnesses associated with occupational exposure to physical or chemical agents may be included in this definition. (5-3-03)
- 18. Foodborne Disease Outbreak.** An incident in which two (2) or more persons experience a similar illness after ingestion of a common food, ~~and epidemiological analysis implicates the food as the source of the illness. There are two (2) exceptions: one (1) case of botulism or chemical poisoning constitutes an outbreak.~~ (9-21-92)(\_\_\_\_)
- 19. Food Handler Employee.** ~~Any person who handles food utensils or who prepares, processes, handles, or serves food for people other than members of his/her immediate household. An individual working with unpackaged food, food equipment, or utensils, or food-contact surfaces as defined in IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," the Idaho Food Code.~~ (12-31-91)(\_\_\_\_)
- 20. Health Care Facility.** An establishment organized and operated to provide health care to three (3) or more individuals who are not members of the immediate family. (12-31-91)
- 21. Health Care Provider.** A person who has direct or supervisory responsibility for the delivery of

health care or medical services. This ~~shall~~ includes, ~~but not be limited to~~: licensed physicians, nurse practitioners, physician assistants, nurses, dentists, chiropractors, and administrators, superintendents, and managers of clinics, hospitals, and licensed laboratories. (9-21-92)(\_\_\_\_)

**22. Idaho Food Code.** Idaho Administrative Code that governs food safety, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments". The Idaho Food Code may be found at: [www.foodsafety.idaho.gov](http://www.foodsafety.idaho.gov). (\_\_\_\_)

**223. Medical Record.** Hospital or medical records are all those records compiled for the purpose of recording a medical history, diagnostic studies, laboratory tests, treatments, or rehabilitation. Access ~~shall~~ will be limited to those parts of the record which will provide a diagnosis, or will assist in identifying contacts to a reportable disease or condition. Records specifically exempted by statute ~~shall~~ are not ~~be~~ reviewable. (9-21-92)(\_\_\_\_)

**234. Isolation.** The separation of infected persons, persons who may have been exposed to a highly contagious infectious agent, or of persons suspected to be infected, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent. The place of isolation ~~shall~~ will be designated by the Department or the District Board of Health. (5-3-03)(\_\_\_\_)

**245. Laboratory Director.** A person who has direct responsibility for the operation of a licensed laboratory. (12-31-91)

**256. Livestock.** Cattle, swine, horses, mules, asses, native and non-native ungulates, as provided in Section 25-221, Idaho Code. (9-21-92)

**267. Licensed Laboratory.** A medical diagnostic laboratory which is inspected, licensed, or approved by the Department or licensed according to the provisions of the Clinical Laboratory Improvement Act by the United States Health Care and Financing Administration. Licensed laboratory may also refer to the Idaho State Public Health Laboratory, the branch laboratories, and to the United States Centers for Disease Control and Prevention. (4-5-00)

**278. Licensed Physician.** Any physician who is licensed by the Board of Medicine to practice medicine and surgery in Idaho. (9-21-92)

**289. Licensed Veterinarian.** Any veterinarian licensed by the Board of Veterinary Medicine. (12-31-91)

**2930. Outbreak.** An unusual rise in the incidence of a disease. An outbreak may consist of just one (1) case. (12-31-91)

**301. Personal Care.** The service provided by one (1) person to another for the purpose of feeding, bathing, dressing, assisting with personal hygiene, changing diapers, changing bedding, and other services involving direct physical contact. (12-31-91)

**312. Quarantine.** The restriction placed on the entrance to and exit from the place or premise where a case or suspected case of a communicable disease exists. The place of quarantine ~~shall~~ will be designated by the Department or District Board of Health. (12-31-91)(\_\_\_\_)

**323. Rabies Post-Exposure Prophylaxis (PEP).** The administration of a rabies vaccine series with or without the antirabies immune-globulin, depending on pre-exposure vaccination status, following a documented or suspected rabies exposure, as described in "Human Rabies Prevention -- United States, 1999", ~~as defined~~ incorporated in ~~Subsection 005-03~~ of these rules. (4-5-00)(\_\_\_\_)

**334. Rabies Susceptible Animal.** Any animal capable of being infected with the rabies virus. (9-21-92)

**345. Residential Care Facility.** A commercial or non-profit establishment organized and operated to provide a place of residence for three (3) or more individuals who are not members of the same family, but live within the same household. (12-31-91)

**36. Restrict.** To limit the activities of food employees so that there is no risk of transmitting a disease that is transmissible through food. A restricted food employee does not work with exposed food, clean equipment, utensils, linens, and unwrapped single-service or single-use articles. A restricted employee may still work at a food establishment as outlined in the Idaho Food Code. For those employed in other occupations described in Section 020 of these rules, under specific control measures for reportable diseases, activities are limited to reduce the risk of disease transmission until such time that they are no longer considered a health risk to others. ( )

**357. Restrictable Disease.** A communicable disease which occurs in a setting where predictable and serious consequences may occur to the public. The determination of whether a disease is restrictable is based upon the specific environmental setting and the likelihood of transmission to susceptible persons. (12-31-91)

**368. Severe Reaction to Any Immunization.** Any serious or life-threatening condition which results directly from the administration of any immunization against a communicable disease. (4-5-00)

**379. Significant Exposure to Blood or Body Fluids.** Significant exposure is defined as a percutaneous injury, contact of mucous membrane or non-intact skin, or contact with intact skin when the duration of contact is prolonged or involves an extensive area, with blood, tissue, or other body fluids as defined in "Public Health Service Guidelines for the Management of Health Care Worker Exposures to HIV and Recommendations for Postexposure Prophylaxis," *as defined incorporated in Subsection 005-04 of these rules.* (4-5-00)( )

**3840. Standard Precautions.** Methods used to prevent transmission of all infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals," *as defined incorporated in Subsection 005-07 of these rules.* (4-5-00)( )

**3941. State Epidemiologist.** A person employed by the Department to serve as a statewide epidemiologist. (4-5-00)

**402. State Health Officer.** The person appointed by the Director of the Department of Health and Welfare to serve as the statewide health officer. (12-31-91)

**413. Suspected Case.** A person who is diagnosed with or reasonably thought to have a particular disease or condition by a licensed physician or other health care provider. The suspected diagnosis may be based on signs and symptoms, or on laboratory evidence, or both criteria. Suspected cases of some diseases are reportable as described in Section 020 of these rules. (12-31-91)( )

**424. Vaccination of an Animal Against Rabies.** Vaccination of an animal by a licensed veterinarian with a rabies vaccine licensed or approved for the animal species and administered according to the specifications on the product label or package insert as described in the "Compendium of Animal Rabies Control, 1999-2005", *as defined incorporated in Subsection 005-05 of these rules.* (4-5-00)( )

**435. Waterborne Outbreak.** An incident in which two (2) or more persons experience a similar illness after ingestion of water from a common supply and epidemiological analysis implicates the water as the source of the illness. (5-3-03)

**446. Working Day.** One (1) 8 a.m. to 5 p.m. official state work shift. (9-21-92)

**005. DOCUMENTS INCORPORATED BY REFERENCE.**

The five (5) documents referenced in Subsections 005.01 through 005.05 of these rules are used as a means of further clarifying these rules. These documents are incorporated by reference *pursuant to Section 67-5229, Idaho Code. These documents and* are available at the Idaho State Law Library, *the Legislative Council, and the Office of Administrative Rules* or at the Department's main office listed in Section 007 of these rules. *The documents referenced in this chapter are:* (5-3-03)( )

**01. "Guideline for Isolation Precautions in Hospitals".** Garner JS et al. "Guideline for Isolation Precautions in Hospitals". Infect Control Hosp Epidemiol 1996; 17:53-80. (4-5-00)

**02. "Case Definitions for Infectious Conditions Under Public Health Surveillance."** Morbidity and

Mortality Weekly Report, May 2, 1997, Vol 46, No. RR-10. Centers for Disease Control and Prevention. (4-5-00)

**03. "Human Rabies Prevention-- United States, 1999."** Morbidity and Mortality Weekly Report, Jan 8, 1999, Vol 48, RR-1. Centers for Disease Control and Prevention. (4-5-00)

**04. "Public Health Service Guidelines for the Management of Health Care Worker Exposures to HIV and Recommendations for Postexposure Prophylaxis."** Mortality and Morbidity Weekly Report, May 15, 1998, Vol 47, RR-7. (4-5-00)

**05. "Compendium of Animal Rabies Control, 20045."** National Association of State Public Health Veterinarians, Inc., Morbidity and Mortality Weekly Report, ~~May 25, 2004~~ March 18, 2005, Vol 504, RR 083. Centers for Disease Control and Prevention. (~~5-3-03~~)( )

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records". ( )

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ( )

**007. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- 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. ( )

**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. ( )

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

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

**05. Internet Website.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. ( )

~~006~~**008. -- 009. (RESERVED).**

**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. Persons in charge of food establishments must report potential foodborne illnesses. 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~~ must report as indicated in Subsection 025.03.g. of these rules (~~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)
<u>xxxvii.</u>	<u>Norovirus;</u>	<u>( )</u>
xxxviii.	Pertussis;	(11-17-83)
xxxix.	Phenylketonuria;	(5-3-03)
<del>xxxi.</del>	Plague;	(11-17-83)
li.	Pneumocystis carinii pneumonia (PCP);	(9-21-92)
xlii.	Pneumococcal invasive disease in children less than eighteen (18) years of age;	(5-3-03)
xliii.	Poliomyelitis;	(11-17-83)
<del>xliv.</del>	Psittacosis;	(11-17-83)
xlv.	Q fever;	(11-17-83)
xlvi.	Rabies (human and animal);	(4-5-00)
xlvii.	Relapsing fever, tick-borne and louse-borne;	(4-5-00)
xlviii.	Rocky Mountain spotted fever;	(11-17-83)
<del>xlvi.</del>	Rubella (including congenital rubella syndrome);	(11-17-83)
<del>xlvi.</del>	Salmonellosis (including typhoid fever);	(11-17-83)
li.	Severe acute respiratory syndrome (SARS);	(4-6-05)
lii.	Shigellosis;	(11-17-83)
liii.	Smallpox;	(5-3-03)
liii.	Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever;	(9-21-92)

- lv. Syphilis; (11-17-83)
- lvi. Tetanus; (11-17-83)
- lvii. Transmissible spongiform encephalopathies (TSEs), including Creutzfeldt-Jakob Disease (CJD) and variant CJD (vCJD). (4-6-05)
- lviii. Trichinosis; (11-17-83)
- ~~lviii~~. Tuberculosis; (11-17-83)
- lix. Tularemia; (11-17-83)
- lxi. West Nile virus infection; (4-6-05)
- lxii. Yersiniosis. (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~~ must 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~~ may 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~~ of these rules must be reported to the Department or District by the laboratory director or his authorized representative. The report ~~shall~~ must 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~~)( )
  - vii. Tularemia. ( )
- 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. Norovirus. ( )
  - xvi. Pertussis; (11-17-83)
  - xvii. Phenylketonuria; (5-3-03)

xviii.	Poliomyelitis;	(11-17-83)
<del>xviii.</del>	Q fever;	(5-3-03)
xix.	Rabies in animals;	(9-21-92)
xxi.	Rubella (including congenital rubella syndrome);	(11-17-83)
xxii.	Salmonellosis (including typhoid fever);	(11-17-83)
xxiii.	Severe acute respiratory syndrome (SARS);	(4-6-05)
<u>xxiv.</u>	<u>Shigellosis;</u>	( )
<del>xxiii.</del>	<del>Tularemia;</del>	<del>(5-3-03)</del>
xxv.	Extraordinary occurrence of illness including clusters;	(4-5-00)
xxvi.	Severe or unusual reactions to any immunization;	(11-17-83)
xxvii.	Food poisoning, foodborne illness, or waterborne illness.	(5-3-03)
c.	The remaining reportable diseases and conditions listed below <del>shall</del> <u>must</u> be reported to the Department or District within three (3) working days of the identification of a case:	<del>(5-3-03)</del> ( )
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)
<del>xxx.</del>	<del>Shigellosis;</del>	<del>(9-21-92)</del>
xxx <del>z</del> .	Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever;	(9-21-92)
xxxi <del>z</del> .	Syphilis;	(9-21-92)
xxxii <del>z</del> .	Tetanus;	(9-21-92)
xxxi <del>z</del> <u>ii</u> .	Transmissible spongiform encephalopathies (TSEs), including Creutzfeldt-Jakob Disease (CJD) and variant CJD (vCJD).	(4-6-05)
xxx <del>z</del> <u>iv</u> .	Trichinosis;	(9-21-92)
xxxv <del>z</del> .	Toxic shock syndrome;	(9-21-92)
xxxvi <del>z</del> .	Tuberculosis;	(9-21-92)
xxxvii <del>z</del> .	West Nile virus infection;	(4-6-05)
xxx <del>z</del> <u>viii</u> .	Yersiniosis;	(9-21-92)

**d.** The laboratory director or his authorized representative ~~shall~~ must 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:

- ~~(4-5-00)~~( )
- i. Bacillus anthracis; (4-5-00)

- ii. Yersinia pestis; (4-5-00)
- iii. Corynebacteria diphtheria; ~~and~~ (~~4-5-00~~)( )
- iv. Rabies, human or animal; and (~~4-5-00~~)( )
- v. Tularemia. ( )

**e.** The laboratory director or his authorized representative ~~shall~~ **must** 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)
- ix. Hepatitis A ( )
- x. Maple syrup urine disease; (5-3-03)
- xi. Neisseria meningitidis from CSF or blood; (5-3-03)
- xii. Norovirus. ( )
- xiii. Phenylketonuria; (5-3-03)
- xiv. Salmonella species; ( )
- xv. Severe acute respiratory syndrome (SARS); (4-6-05)
- xvi. Shigella species; ( )
- xvii. Vibrio cholerae. (4-5-00)

**f.** The laboratory director or his authorized representative must report the identification of, or laboratory findings suggestive of, the presence of the following organisms or conditions to the Department or District within three (3) working days. (4-6-05)

- 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)
- ix. 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)
- x. Human T-Lymphotropic Virus positive tests; (4-5-00)
- xi. Lead levels of ten (10) micrograms or more per deciliter (ug/dl) of whole blood; (9-21-92)
- xii. Listeria species; (4-5-00)
- ~~xiii.~~ Mycobacterium tuberculosis complex; (4-5-00)
- xiv. Neisseria gonorrhoeae; (11-17-83)
- xv. Plasmodium species; (11-17-83)
- ~~xvi.~~ ~~Salmonella species;~~ (~~11-17-83~~)
- ~~xvii.~~ ~~Shigella species;~~ (~~11-17-83~~)
- ~~xviii.~~ Syphilis tests (positive or reactive USR, RPR, VDRL, FTA, darkfield, others); (11-17-83)
- ~~xix.~~ Transmissible spongiform encephalopathies (TSEs), including Creutzfeldt-Jakob Disease (CJD) and variant CJD (vCJD). (4-6-05)
- ~~xx.~~ West Nile virus; (4-6-05)
- ~~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~~ will 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); (4-6-05)
- xix. Smallpox; (5-3-03)
- xx. Syphilis; (11-17-83)
- xxi. Tularemia; (5-3-03)
- xxii. Extraordinary occurrence of illness including clusters; (4-5-00)
- xxiii. Severe or unusual reaction to any immunization. (11-17-83)

**b.** The District ~~shall~~ must notify the Department no later than weekly of all other cases of reportable diseases and conditions not specified in Subsection 010.04.a. of these rules. (~~9-21-92~~)(    )

**c.** No employee of the Department or District ~~shall~~ may 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~~)(    )

**011. TESTING FOR CERTAIN REPORTABLE DISEASES WITHOUT PRIOR CONSENT.**

A physician may order blood or body fluid tests for hepatitis viruses, malaria, syphilis, or 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. (Section 39-4303A-4504, Idaho Code) (~~9-21-92~~)(    )



(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~~ must 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~~ must 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~~ must 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~~ must be performed to determine if the case is employed as a food ~~handler~~ employee, provides personal care at a health care or day care facility, or is a child attending a day care facility. ~~(11-17-83)( )~~

c. Symptomatic persons excreting Entamoeba histolytica are restricted from working as food employees in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. ( )

d. Members of the household in which there is a case of amebiasis may not work as a food employee 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. ( )

~~eg.~~ Persons excreting Entamoeba histolytica ~~shall not work as food handlers and shall~~ must not attend day care facilities while incontinent and must 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.~~ Members of the household in which there is a case of amebiasis 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)( )~~

~~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 must* 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 must* 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 must* be reported to the Department which *shall will* notify the Idaho Department of Agriculture. (11-17-83)(\_\_\_\_)

**04. Botulism.** (11-17-83)

**a.** Each case or suspected case of botulism *shall must* 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 will* 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 must* 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 will* be investigated to confirm the diagnosis and to identify the source of the infection. Any identified or suspected source of infection *shall will* be reported to the Department, which *shall will* notify the Idaho Department of Agriculture. (9-21-92)(\_\_\_\_)

**06. Campylobacteriosis.** (11-17-83)

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

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

**c.** Symptomatic persons excreting Campylobacter are restricted from working as food employees in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. (\_\_\_\_)

**ed.** Persons excreting Campylobacter spp. *shall must* not ~~work as food handlers~~ attend day care facilities while incontinent 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 once asymptomatic, unless hygienic practices are insufficient and the person remains culture-positive. In that case, before returning to work or day care they must provide at least two (2) approved fecal specimens, collected at least twenty-four (24) hours apart, that 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 will~~ 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 must~~ 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 is~~ 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 will~~ 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 must~~ 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 will~~ 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 will~~ 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 must~~ 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 will* 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 will* be placed under contact precautions. (4-5-00)( )

d. Symptomatic persons excreting Vibrio cholerae are restricted from working as food employees in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. ( )

~~de.~~ Persons excreting Vibrio cholerae *shall must* not ~~work as food handlers~~, attend day care facilities while incontinent and *shall must* not engage in any occupation ~~which that~~ provides personal care to children in day care facilities or to persons confined to health care or residential facilities while in a communicable form unless an exemption is obtained from the Department or District. (11-17-83)( )

ef. 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 must* 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 will* be performed to determine the extent of the outbreak and to identify the source of the infection. (4-5-00)( )

c. Symptomatic persons excreting Cryptosporidium parvum are restricted from working as food employees in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. ( )

~~ed.~~ Persons ~~with~~ excreting Cryptosporidium ~~diarrheal illness shall~~ parvum must not ~~work as food handlers~~ attend day care facilities while incontinent 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 must* 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 will* 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 will* 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~~ will 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~~ will be offered immunization against diphtheria. (11-17-83)(\_\_\_\_)

**f.** ~~Cases and~~ ~~contacts~~ ~~shall be~~ are restricted from working as food ~~handlers~~ employees, 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~~ must 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~~ will be performed to determine if the person is employed as a food ~~handler~~ employee, provides personal care at a health care or day care facility, or is a child attending a day care facility. The investigation ~~shall~~ determines the extent of the outbreak and ~~identifies~~ identifies the most likely source of the infection. (9-21-92)(\_\_\_\_)

**c.** Food employees excreting E. coli O157:H7 and other STEC must be managed in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. (\_\_\_\_)

**ed.** Persons who are excreting E. coli 0157:H7 and other STEC may not attend day care facilities while incontinent or 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~~ must 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~~ will be performed to determine if the person is employed as a food ~~handler~~ employee, provides personal care at a health care or day care facility, or is a child attending daycare facility. The preliminary investigation ~~shall~~ determines the water sources used by the person with giardiasis; ~~The investigation shall determine~~ the extent of the outbreak, and ~~identify~~ identify the most likely source of the infection. (11-17-83)(\_\_\_\_)

**c.** Symptomatic persons who are excreting Giardia lamblia are restricted from working as food employees in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. (\_\_\_\_)

**ed.** Persons with diarrhea who are excreting Giardia lamblia may not attend day care while incontinent

~~or~~ 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~~ has been completed. Asymptomatic persons may provide these services or attend day care 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~~ must be reported to the Department or District within one (1) day of identification. (4-5-00)(\_\_\_\_)

b. Each report of a case ~~shall~~ will 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~~ must be reported to the Department or District within one (1) working day of identification. (9-21-92)(\_\_\_\_)

b. Each report of a case ~~shall~~ will 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~~ must 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~~ must 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~~ must be reported to the Department or District within one (1) working day. (4-5-00)(\_\_\_\_)

b. Each case of HUS ~~shall~~ will 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~~ must 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~~ will 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.** Food employees with hepatitis A must be managed in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. ( )

**d.** Any unvaccinated member of the household in which there is a case of hepatitis A must not work as a food employee unless exemption is obtained from the Department or District. ( )

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

**df.** Persons with hepatitis A ~~shall be restricted from working as a food handler and shall~~ must 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 while in a communicable state. (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~~ should be performed by a licensed laboratory on all food ~~handlers~~ employees suspected of having hepatitis A (9-21-92)( )

**eg.** Children who have hepatitis A ~~shall~~ must 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)( )

**fh.** 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~~ must be reported to the Department or District within one (1) working day of identification. (9-21-92)( )

**b.** Each report of a case ~~shall~~ will 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~~ will be determined six (6) months after the initial diagnosis is established. (11-17-83)( )

i. The carrier status ~~shall~~ will 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~~ must be performed by a licensed laboratory. (11-17-83)( )

iii. All persons who are carriers of hepatitis B ~~shall~~ must 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~~ must 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~~ will 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~~ must 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. of these rules. ~~(4-5-00)~~(\_\_\_\_)

c. Each reported case of HIV infection ~~shall~~ will 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~~ must 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~~ must 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~~ will 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~~ will 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~~ must 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~~ will 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~~ must be examined by a licensed physician for



signs of leprosy. Household contacts and patients in remission ~~shall~~ must 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~~ must 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~~ will be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection ~~shall~~ will be reported to the Department, which ~~shall~~ will notify the Idaho Department of Agriculture if animals are involved. ~~(11-17-83)~~(\_\_\_\_)

**26. Listeriosis.** (4-5-00)

**a.** Each case of listeriosis ~~shall~~ must 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~~ will 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~~ must 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~~ will be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection ~~shall~~ will be reported to the Department, which ~~shall~~ will notify the Idaho Department of Agriculture if animals are involved. ~~(9-21-92)~~(\_\_\_\_)

**28. Malaria.** (9-21-92)

**a.** Each case of malaria ~~shall~~ must be reported to the Department or District within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

**b.** Each report of a case ~~shall~~ will 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~~ will 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~~ must 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~~ will 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~~ must 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~~ must 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~~ must 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~~ must 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~~ must 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~~ must 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~~ must be reported within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

**b.** Each report of a case ~~shall~~ will 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~~ must 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~~ is 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~~ must be placed under wound and skin precautions. ~~(11-17-83)~~(\_\_\_\_)

**d.** Prophylaxis against gonococcal ophthalmia neonatorum ~~shall be~~ is 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~~ must 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~~ will 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 must* 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 must* 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 must* be placed under respiratory isolation until twenty-four (24) hours after the initiation of effective therapy. (11-17-83)( )

**34. Norovirus.** ( )

**a.** Each case of Norovirus must be reported to the Department or District within one (1) working day of identification. ( )

**b.** Each report of a case must be investigated to confirm the diagnosis, determine the extent of the outbreak, and determine the source of the infection. ( )

**c.** Persons excreting Norovirus are restricted from working as food employees while symptomatic unless exemption is made by the Department or District. ( )

**d.** Persons excreting Norovirus must not attend day care facilities or schools while symptomatic 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 once asymptomatic, unless hygienic practices are insufficient. ( )

**345. Pertussis.** (9-21-92)

**a.** Each case or suspected case of pertussis *shall must* 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 will* 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 must* 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 must* 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)( )

**356. Plague.** (11-17-83)

**a.** Each case or suspected case of plague *shall must* be reported to the Department or District by telephone immediately, day or night, upon identification, which *shall will* notify the Idaho Department of Agriculture if animals are involved. (4-5-00)( )

**b.** Each report of a case or suspected case *shall will* 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 must* 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 must* 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 must* 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)~~(\_\_\_\_)

**367. 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 must* be reported to the Department or District within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

b. Each report of a case *shall will* 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 will* be restricted from a day care facility, school, or work as long as the disease in a communicable form. ~~(5-3-03)~~(\_\_\_\_)

**378. Pneumocystis Carinii Pneumonia (PCP).** (9-21-92)

a. Each case of Pneumocystis carinii pneumonia *shall must* be reported to the Department or District within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

b. Each report of a case *shall will* 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 must* be reported. ~~(9-21-92)~~(\_\_\_\_)

**389. Poliomyelitis.** (9-21-92)

a. Each case or suspected case of poliomyelitis *shall must* 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 will* 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 will* be ascertained and all susceptible contacts *shall will* be offered immunization. ~~(11-17-83)~~(\_\_\_\_)

**3940. Psittacosis.** (11-17-83)

a. Each case of psittacosis *shall must* be reported to the Department or District within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

b. Each case *shall will* 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 must* be reported to the Department which *shall will* notify the Idaho Department of Agriculture if birds or other animals are involved. ~~(11-17-83)~~(\_\_\_\_)

**401. Q Fever.** (11-17-83)

a. Each case ~~shall~~ must be reported to the Department or District within one (1) working day of identification. ~~(5-3-03)~~(\_\_\_\_)

b. Each reported case ~~shall~~ will 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~~ must be reported to the Department which ~~shall~~ will notify the Idaho Department of Agriculture if animals are involved. ~~(11-17-83)~~(\_\_\_\_)

**472. Rabies.** (11-17-83)

a. Each case or suspected case of rabies in humans ~~shall~~ must be reported immediately to the Department or District, day or night, upon identification. Each case of rabies in animals ~~shall~~ will be reported to the Department or District and the Idaho 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~~ will 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~~ must be reported to the Department or District within one (1) working day. ~~(4-5-00)~~(\_\_\_\_)

d. Each reported PEP initiation ~~shall~~ will 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~~ will 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~~ must be as follows: ~~(9-21-92)~~(\_\_\_\_)

i. Any livestock which has bitten a person ~~shall~~ must be managed by the Idaho Department of Agriculture. ~~(9-21-92)~~(\_\_\_\_)

ii. Any healthy domestic dog, cat, or ferret which has bitten a person ~~shall~~ must 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~~ must 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~~ is 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~~ must be destroyed by a means other than shooting in the head. The head ~~shall~~ must be submitted to an approved laboratory for rabies analysis. ~~(4-5-00)~~(\_\_\_\_)

v. Susceptible animals other than domestic dogs, cats, ferrets, or livestock ~~shall~~ must be destroyed and the head submitted to an approved laboratory for rabies analysis unless an exemption is given by the Department or District. ~~(4-5-00)~~(\_\_\_\_)

vi. No person ~~shall~~ will 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~~ must 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~~ must 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 Idaho Department of Agriculture and vaccinated ~~one (1) month prior to release from quarantine according to the Rabies Compendium. Vaccinated animals with current vaccinations~~ including livestock should be revaccinated immediately with an ~~currently recommended~~ appropriate rabies vaccine and quarantined for ~~ninety~~ forty-five (45) 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~~ must 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~~ is 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~~ is 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~~ must be destroyed. The animal ~~shall~~ must 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~~ will 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)~~(\_\_\_\_)

**423. Relapsing Fever.** (11-17-83)

**a.** Each case of relapsing fever ~~shall~~ must be reported to the Department or District within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

**b.** Each report of a case ~~shall~~ will 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)~~(\_\_\_\_)

**434. Reye Syndrome.** (9-21-92)

**a.** Each case of Reye syndrome ~~shall~~ must be reported to the Department or District within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

**b.** Each case ~~shall~~ will be investigated to obtain specific clinical information, to learn more about the etiology, risk factors, and means of preventing the syndrome. ~~(9-21-92)~~(\_\_\_\_)

**445. Rocky Mountain Spotted Fever.** (11-17-83)

**a.** Each case of Rocky Mountain spotted fever ~~shall~~ must be reported to the Department or District within three (3) working days of identification. ~~(5-3-03)~~(\_\_\_\_)

**b.** Each report ~~shall~~ will be investigated to confirm the diagnosis, to identify the source of infection, and to determine if control measures should be initiated. ~~(11-17-83)~~(\_\_\_\_)

**456. Rubella.** (11-17-83)

**a.** Each case or suspected case of rubella (including congenital rubella syndrome) ~~shall~~ must 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~~ will 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~~ must 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~~ must 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~~ must not attend or be present in a day care facility as long as the disease is in a communicable form. (11-17-83)(\_\_\_\_)

**467. Salmonellosis.** (11-17-83)

a. Each case of salmonellosis (including typhoid fever) ~~shall~~ must be reported to the Department or District within one (1) working day of identification. (9-21-92)(\_\_\_\_)

b. Each report of a case ~~shall~~ will 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. Symptomatic persons excreting non-Typhi Salmonella are restricted from working as food employees in accordance with the IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." Idaho Food Code.~~ (9-21-92)(\_\_\_\_)

d. Persons excreting non-Typhi Salmonella ~~shall be restricted from working as food handlers, and shall not~~ must not attend day care facilities while incontinent nor 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 or District. ~~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 of non-Typhi Salmonella~~ provided that they are asymptomatic. If hygienic practices are insufficient for persons in any of the above mentioned occupations or activities, before returning to work or day care they must provide two (2) approved fecal specimens, collected not less than twenty-four (24) hours apart; and forty-eight (48) hours after the last dose of antimicrobials, which 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 or work as a food employee 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 which are those who excrete Salmonella for more than one (1) year after onset, are restricted from working as food handlers employees, and shall must~~ must 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)(\_\_\_\_)

**f.** Food employees excreting Salmonella Typhi must be managed in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. ( )

**g.** ~~Identification and management of typhoid fever cases and carriers.~~ Persons excreting Salmonella Typhi must not attend day care facilities while incontinent and must 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 or District. (11-17-83)( )

**h.** Any person with typhoid fever ~~shall~~ will 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~~ three (3) 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)( )

**i.** Any member of a household in which there is a case of Salmonella Typhi may not engage in the ~~above~~ occupations described in Subsections 020.47.e. and 020.47.g. of these rules until at least two (2) fecal specimens are negative for Salmonella testing on examination by a licensed laboratory. (4-5-00)( )

**ii.** All chronic carriers of Salmonella Typhi ~~shall~~ must 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)~~**i.** The typhoid carrier agreement is a written agreement between the carrier and the Department or District. (11-17-83)( )

~~(2)~~**ii.** The carrier agrees to not work as a food ~~handler~~ employee, to notify the Department or District 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 or District. (11-17-83)( )

~~iii.~~ **k.** 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)

**478. Severe Acute Respiratory Syndrome (SARS).** (4-6-05)

**a.** Each case of suspected or confirmed SARS must be reported to the Department or District within one (1) working day. (4-6-05)

**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. (4-6-05)

**c.** Recommendations for appropriate isolation of the suspected or confirmed case will be made. (4-6-05)

**489. Shigellosis.** (11-17-83)

**a.** Each case of shigellosis ~~shall~~ must be reported to the Department or District within ~~three~~ one (1) working day~~s~~ of identification. (5-3-03)( )

**b.** Each report of a case ~~shall~~ must be investigated to confirm the diagnosis and to determine the extent of the outbreak. An attempt ~~shall~~ must be made to identify contacts, carriers, and the source of infection. (11-17-83)( )

**c.** Food employees excreting Shigella must be managed in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. ( )

**d.** No member of the household in which there is a case of shigellosis may work as a food employee



unless the Department or District approves and at least one (1) fecal specimen is negative for Shigella testing on examination by a licensed laboratory. ( )

**eg.** Persons excreting Shigella ~~shall~~ must not ~~work as food handlers nor~~ attend day care facilities. ~~They shall while incontinent and must~~ 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 while the disease is present in a communicable form 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 or District approves and at least one (1) fecal specimen is negative for Shigella testing on examination by a licensed laboratory. (9-21-92)( )

**4950. Smallpox.** (5-3-03)

**a.** Each case or suspected case of smallpox ~~shall~~ must 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~~ will 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~~ must 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~~ must 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~~ must 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~~ must 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)

**501. 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~~ must be reported to the Department or District within three (3) working days of identification. (5-3-03)( )

**b.** Each case ~~shall~~ will 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)

**512. Syphilis.** (9-21-92)

a. Each case or suspected case of infectious, or recently infectious, syphilis ~~shall~~ must be reported to the Department or District within three (3) working days of identification. Cases of late latent syphilis ~~shall~~ must 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~~ will 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~~ is 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)

**523. Tetanus.** (9-21-92)

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

b. Each report of a case ~~shall~~ will be investigated to confirm the diagnosis and to determine the immunization status of the case. (~~9-21-92~~)(    )

**534. Transmissible Spongiform Encephalopathies (TSEs), Including Creutzfeldt-Jakob Disease (CJD) and Variant CJD (vCJD).** (4-6-05)

a. Each case or suspected case of a transmissible spongiform encephalopathy (TSE) must be reported to the Department or District within three (3) working days of identification. (4-6-05)

b. Each report of a case must be investigated to determine the cause and confirm the diagnosis. (4-6-05)

**545. Trichinosis.** (11-17-83)

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

b. Each report of a case ~~shall~~ will 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~~ must be reported to the Department which ~~shall~~ will immediately notify the Idaho Department of Agriculture ~~and~~ or other regulatory agency. (~~11-17-83~~)(    )

**556. Toxic Shock Syndrome.** (11-17-83)

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

b. Each case ~~shall~~ will 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~~)(    )

**567. Tuberculosis.** (11-17-83)

a. Each case or suspected case of tuberculosis ~~shall~~ must 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 will~~ 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 must~~ 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 must~~ 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 must~~ 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 must~~ 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 must~~ conduct an investigation to identify contacts. The Department or District authorized representative may assist in the investigation. (~~9-21-92~~)( )

**578. Tularemia.** (11-17-83)

a. Each case or suspected case of tularemia ~~shall must~~ be reported to the Department or District ~~within one (1) working day of~~ immediately upon identification. (~~5-3-03~~)( )

b. Each report of a case ~~shall will~~ 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 must~~ be reported to the Department, which ~~shall will~~ notify the Idaho Department of Agriculture. (~~11-17-83~~)( )

**589. Viral or Aseptic Encephalitis and Meningitis.** (4-5-00)

a. Each case of diagnosed or suspected viral or aseptic encephalitis and meningitis ~~shall must~~ 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)

**590. West Nile Virus (WNV) Infection.** (4-6-05)

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. (4-6-05)

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. (4-6-05)

**~~601.~~ Yersiniosis.** (11-17-83)

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

**b.** Each report of a case ~~shall~~ must be investigated to confirm the diagnosis and to identify carriers and the source of the infection. (~~11-17-83~~)(    )

**c.** Symptomatic persons excreting Yersinia are restricted from working as food employees in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," Idaho Food Code. (    )

**~~612.~~ Extraordinary Occurrence of Illness, Including Clusters.** (4-5-00)

**a.** Cases, suspected cases, and clusters of extraordinary or unusual illness ~~shall~~ must 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~~ will 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~~ will 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 of these rules. (~~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~~ must be reported to the Department or District within one (1) working day and investigated. (~~4-5-00~~)(    )

**~~623.~~ Severe Reaction to Any Immunization.** (9-21-92)

**a.** Each case or suspected case of a severe reaction to any immunization ~~shall~~ must 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~~ will be investigated to confirm and to document the circumstances relating to the reported reaction. (~~11-17-83~~)(    )

**~~634.~~ 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~~ must 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)

**~~645.~~ 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~~ must 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. Norovirus; (\_\_\_\_)
- xii. Pertussis; (11-17-83)
- xiii. Pneumococcal invasive disease in children less than eighteen (18) years of age; (5-3-03)
- ~~xiv.~~ Poliomyelitis; (11-17-83)
- ~~xv.~~ Rubella; (11-17-83)
- ~~xvi.~~ Salmonellosis; (11-17-83)
- ~~xvii.~~ Severe acute respiratory syndrome (SARS); (4-6-05)
- ~~xviii.~~ Shigellosis; (11-17-83)
- ~~xviii.~~ Smallpox; (5-3-03)
- ~~xix.~~ Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
- ~~xx.~~ 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~~ must 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~~ must 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~~ must not work as a food ~~handler~~ employee 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. Cryptosporidiosis; ( )
  - ~~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. Norovirus; ( )

- ix. Salmonellosis; (11-17-83)
- xi. Shigellosis; (11-17-83)
- ~~xii. Staphylococcal skin infections; (11-17-83)~~
- ~~xiii. 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)~~
- xiv. Yersiniosis ( )

**eb.** 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. of these rules 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)( )

**c.** A person exhibiting the following conditions which are consistent with diseases that may be transmitted from one (1) person to another through food or beverage must not work as a food employee and must be managed by the person in charge in accordance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." Idaho Food Code. ( )

- i. Diarrhea (until common communicable causes have been ruled out); ( )
- ii. Fever; ( )
- iii. Jaundice; ( )
- iv. Sore throat with fever; ( )
- v. Uncovered and open or draining skin lesions with pus, such as a boil or open wound; ( )
- vi. Vomiting (until noninfectious cause is identified). ( )

**bd.** The state health officer or his authorized representative may require a food ~~handler~~ employee 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~~ employee is afflicted with a disease or condition listed in ~~this~~ Subsections 025.02.a. and 025.02.c. of these rules. (11-17-83)( )

**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. Norovirus; ( )
- viii. Pertussis; (11-17-83)
- ~~viii~~ix. Plague; (11-17-83)
- ix. Pneumococcal invasive disease in children less than eighteen (18) years of age; (5-3-03)
- xi. Rubella; (11-17-83)
- xii. Severe acute respiratory syndrome (SARS); (4-6-05)
- xiii. Shigellosis; (11-17-83)
- ~~xiii~~iv. Smallpox; (5-3-03)
- xiv. Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
- xvi. 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~~ must 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~~ must 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)



(BREAK IN CONTINUITY OF SECTIONS)

**997. ~~CONFIDENTIALITY.~~**

~~Before any information about a patient, client, registrant, applicant, or recipient contained in the departmental records may be released to the person who is the subject of the record, to another departmental unit, to another governmental agency, or to a private individual or organization, the unit of the Department with custody of the record must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records".~~  
(11-17-83)

~~998~~997. -- 999. (RESERVED).

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES**

**DOCKET NO. 16-0601-0501**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, and 56-1004, Idaho Code. Section 56-805(2), Idaho Code, and Title IV, Part E, Federal Payment for Foster Care and Adoption Assistance, Section 473(C)(3), (42 U.S.C. 673) C(3)).

**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 Wednesday, September 21, 2005.

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

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

The proposed rule change will help prevent an adoptive family from inadvertently, and without notice, losing benefits for which they are eligible. Specifically, the proposed change deletes language stating that adoption assistance benefits, whether funded by Title IV-E or state general funds, may be suspended or terminated if the adoptive family fails to complete the annual recertification process. This change will help maintain the stability of the adoption and preserve the incentive function of adoption assistance benefits for hard-to-place children.

Corrections are also being made in the sections of rule required under the Administrative Procedure Act.

**FEE SUMMARY:** There is no fee or charge being imposed or increased in this docket.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There are no anticipated impacts to State of Idaho general funds as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is being done to align rules with federal code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kathy Morris at (208) 334-5706.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, September 28, 2005.

DATED this 3rd day of August, 2005.

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. 16-0601-0501

**000. LEGAL AUTHORITY.**

~~Pursuant to Sections 16-1624, 16-2001, 16-2402, 56-202(b), 56-203b, 56-204(a) and 56-204A, 56-1003, and 56-1004, Idaho Code, the Idaho Legislature has delegated to the Department the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need. These services include but are not limited to provisions for child protection services, termination of parental rights, foster care, adoption services, children's mental health services, institutional and group care, services for unwed parents, and payments for foster care and day care. In addition, pursuant to Sections 39-105(1), 39-119, 56-803, 16-1822, and 16-1827, the Idaho Legislature has delegated to the Board of Health and Welfare the responsibility to establish and enforce rules governing licensing, fees for services, and adoption of "hard-to-place" children. Authority to establish and enforce rules governing and implementing the Interstate Compact on Placement of Children and Interstate Compact on Adoption and Medical Assistance is vested in the Compact Administrators, pursuant to Sections 16-2102, Article VII, and 39-7501, Idaho Code, respectively. The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, and 56-1004, Idaho Code.~~  
(3-18-99)( )

(BREAK IN CONTINUITY OF SECTIONS)

**003. ADMINISTRATIVE APPEALS.**

~~Administrative appeals shall be~~ are governed by the ~~Idaho Department of Health and Welfare Rules~~ provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (3-18-99)( )

**004. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

~~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".~~ (3-18-99)

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records". ( )

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ( )

(BREAK IN CONTINUITY OF SECTIONS)

**007. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- 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. ( )

**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. ( )

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at

450 West State Street, Boise, Idaho 83702. ( )

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

**05. Internet Website.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. ( )

~~007~~**008. -- 009. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.**

A written agreement shall be negotiated and fully executed between the Department and adopting family prior to the finalization of adoption and implementation of benefits. (3-18-99)

**01. Agreement Specifications.** The agreement shall specify the following: the type and amount of assistance to be provided and that it may be adjusted periodically with the concurrence of the adoptive parent(s) to reflect changing circumstances; the date for annual renewals and that the renewal depends on availability of funds; and that payments shall begin after the final certified copy of the Order of Adoption is received by the Department. The adoptive parent(s) are required to inform the state agency of any circumstances which would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. (5-3-03)

**02. ~~Suspension or~~ Termination of Adoption Assistance.** Adoption assistance ~~may~~ will be ~~suspended~~ or terminated if ~~the adoptive family fails to complete the annual recertification process,~~ the adoptive parent(s) no longer have legal responsibility for the child as a result of termination of parental rights, the child is no longer receiving any financial support from the parents, or the child has reached the age of eighteen (18) years regardless of the child's educational status. (~~5-3-03~~)( )

**03. Adoption Assistance Follows the Child.** If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. If the child is IV-E or state-funded adoption assistance eligible, referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. Non IV-E eligible children receiving a state adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. (5-3-03)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**

**DOCKET NO. 16-0612-0501**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, 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 Wednesday, September 21, 2005.

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:

Under the current rules, parents are able to receive child care assistance indefinitely under the Idaho Child Care Program (ICCP) as long as they document that they are looking for work. This lack of a time limit on searching for work provides little incentive for them to find work and is inconsistent with the program's goal of moving people into the work force.

The Department is adding a three-month limit on the length of time, in a calendar year, that parents looking for work can receive child care assistance. Up to 80 hours of job search time will be allowed for each of these months.

This rule change gives the Department the ability to limit the amount of time parents can receive child care assistance while looking for work. This will encourage people to take jobs, conserve ICCP funds by reducing the opportunities for fraudulent use of child care assistance, better assure accurate payments for child care, limit the need for monthly tracking, and still make it possible for parents to receive child care assistance while they search for work for a reasonable length of time.

**FEE SUMMARY:** There is no fee or charge being imposed or increased in this docket.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

It is estimated that this rule change will result in the following savings of Idaho Child Care Program (ICCP) funds:

One year - \$368,600

Five years - \$1,843,000

(NOTE: These are 100% federal funds.)

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is being done based on recommendations from the Child Care Advisory Panel comprised of community representatives including: child care providers, the Department of Education, Micron, Idaho Tribes, Head Start, the Governor's office, the Idaho Infant and Toddler Council, District Health Departments, and Idaho School Districts.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Genie Sue Weppner at (208) 334-5815.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, September 28, 2005.

DATED this 3rd day of August, 2005.

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

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0612-0501

**108. QUALIFYING ACTIVITIES FOR CHILD CARE.**

To be eligible for child care payments, a family parent must ~~require~~ need child care for one (1) of the following reasons ~~listed in Subsections 108.01 through 108.04 of these rules.~~ (5-3-03)( )

**01. Child Care Needed for Employment.** ~~For the caretaker~~ The parent must need child care to seek, accept, or maintain employment. ~~Work search activities must be documented at least every thirty (30) days.~~ (5-3-03)( )

**a.** An unemployed parent can use the search for work as the activity qualifying them for child care assistance for a total of no more than three (3) months during a calendar year. However, when work search activities are required by the Department, the parent is not subject to this three (3) month limit. ( )

**b.** For any of these three (3) months in which the parent claims to be looking for work, eighty (80) hours of work search will be counted as the qualifying activity for child care. These activity hours are used as a factor in determining the amount of child care assistance. The actual amount of payment is based on Section 305 of these rules. ( )

**c.** When work search is the qualifying activity, it can not be combined with any other qualifying activity listed under Section 108 of these rules. ( )

**02. Child Care Needed for Training or Education.** ~~For the caretaker~~ The parent must need child care to attend an education or training program. Persons with baccalaureate degrees or who are attending post-baccalaureate classes ~~will do~~ not qualify for child care assistance. Satisfactory progress in the program must be maintained in order to continue to receive benefits. (7-1-99)( )

**03. Child Care Needed for Preventive Services.** The parent must need child care to access preventive services. Preventive services permit families to participate in treatment services designed to reduce or eliminate the need for ~~protective intervention~~ out-of-home placement of a child by the Department. The Department must ~~Verification of~~ verify the continued need for preventive services ~~must be~~ at least every three (3) months, ~~for the family to continue to be eligible for payment.~~ (5-3-03)( )

**04. Activities Negotiated Between the Department and ~~Participant~~ Parent.** ~~For the caretaker~~ The parent must need child care to complete Personal Responsibility Contract activities negotiated between the Department and the ~~participant~~ parent. (7-1-99)( )

## IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

### 18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0173-0501

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 3, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 41-211 and 41-5511(4), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2005.

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

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

Senate Bill 1198 amended Section 41-5511(4), Idaho Code, this year to require that the Individual High Risk Reinsurance Pool Board design a Health Savings Account (HSA) compatible health insurance plan to be available through the Idaho High Risk Reinsurance Pool Program. This rule sets forth the design of the new plan. The plan will allow persons who may not otherwise be able to obtain coverage due to health conditions to have the option of purchasing a high deductible plan coupled with a federally qualified Health Savings Account, in addition to the other types of plans available through the High Risk Pool Program.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: It is needed to comply with amendments to Section 41-5511(4), Idaho Code, and confers a benefit.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is required by SB 1198.

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

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 September 28, 2005.

DATED this 2nd day of August.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0173-0501

**004. DEFINITIONS.**

For the purposes of this Rule, the following terms will be used as defined below: (6-30-95)

**01. Benefit Percentage.** Benefit percentage is the percentage of the cost of a health care service paid by the insurer under a health insurance plan, as defined in the Schedule of Benefits. (6-30-95)

**02. Calendar Year.** Calendar year is a period of one (1) year which starts on January 1st and ends on December 31st. (6-30-95)

**03. Coinsurance.** Coinsurance is a percentage of the cost of a health care service, paid by the insured under a health insurance plan, as defined in the schedule of benefits. (3-15-02)

**04. Copayment.** Copayment is a specified charge that must be paid each time care is received of a particular type or in a designated setting. The instances in which a copayment will be required are specified in the schedule of benefits. The Copayments must be paid before any other payment will be made under the policy. The copayment will not count toward any deductible or out-of-pocket expense required under the policy, with the exception of the HSA. ~~(3-15-02)~~(8-3-05)T

**05. Deductible.** Deductible means the amount of the covered charge each insured is obligated to pay each calendar year before the plan will pay for covered medical services. All covered charges are subject to the Deductible amount unless specifically noted otherwise. (3-15-02)

**06. Out-of-Pocket Expense Maximum.** Out-of-pocket expense maximum is the maximum medical expense that an insured is obligated to pay, which includes coinsurance as defined in the schedule of benefits. Under the Basic, Standard, and Catastrophic A and B health benefit plans, the out-of-pocket expense maximum does not include deductibles, copayments, pharmacy expenses, and expenses for non-covered services and supplies, and charges in excess of the eligible expense. After the out-of-pocket expense maximum has been reached, covered services will be provided at one hundred percent (100%) except for specific deductibles, copayments, pharmacy benefits, non-covered services and supplies, and charges in excess of the eligible expense. HSA annual out-of-pocket expense maximum, subject to any policy limitations, or ineligible out-of-pocket expenses, includes deductibles, copayments, and coinsurance including pharmacy expenses. After the HSA out-of-pocket expense maximum has been reached, covered services will be provided at one hundred percent (100%) with the exception of services, supplies, and charges in excess of the eligible expense. ~~(3-15-02)~~(8-3-05)T

**07. Pre-Existing Condition.** Pre-existing condition is defined in Section 41-5208(3), Idaho Code. (6-30-95)

**08. Provider.** Provider means any of the following licensees duly licensed to practice in any of the following categories of health care professions: (3-15-02)

- a. Licensed general hospital; (3-15-02)
- b. Chiropractor; (6-30-95)
- c. Dentist; (6-30-95)
- d. Optometrist; (6-30-95)
- e. Pharmacist; (6-30-95)
- f. Physician and surgeon, of either medicine and surgery or of osteopathic medicine and surgery; (6-30-95)



- g.** Podiatrist; and (6-30-95)
- h.** Any other licensed facility or practitioner who is acting within the scope of that license and who performs a service which is payable under the policy when performed by any of the above health care providers. (3-15-02)
- i.** A provider does not include a person who lives with the insured or is part of the insured's family (insured, insured's spouse, or a child, brother, sister, or parent of insured or insured's spouse). (3-15-02)
- 09. Eligible Expense.** Eligible expense means the expense incurred for a covered service or supply. A physician or other licensed facility or provider has to order or prescribe the service or supply. Expense is considered incurred on the date the service or supply is received. Expense does not include any charge: (3-15-02)
- a.** For a service or supply which is not medically necessary; (3-15-02)
- b.** Which is in excess of reasonable and customary charge for a service or supply; (3-15-02)
- c.** Which is in excess of any contractual arrangements; (3-15-02)
- d.** For any services or supplies which an Insured would have no legal obligation to pay in the absence of coverage under this policy or any similar coverage; or (3-15-02)
- e.** For which no charge or a different charge is usually made in the absence of insurance coverage. (3-15-02)
- 10. Medically Necessary Service or Supply.** Medically necessary service or supply means one which is ordered by a provider and which the Carrier's medical staff or qualified party or entity determines is: (3-15-02)
- a.** Provided for the diagnosis or direct treatment of an injury or sickness; (6-30-95)
- b.** Appropriate and consistent with the symptoms and findings of diagnosis and treatment of the insured persons injury or sickness; (6-30-95)
- c.** Is not considered experimental or investigative; (6-30-95)
- d.** Provided in accord with generally accepted medical practice; (6-30-95)
- e.** The most appropriate supply or level of service which can be provided on a cost effective basis (including, but not limited to, in-patient vs. out-patient care, electric vs. manual wheelchair, surgical vs. medical or other types of care); (6-30-95)
- f.** The fact that the insured's provider prescribes services or supplies does not automatically mean such service or supply are medically necessary and covered by the policy. (3-15-02)
- 11. Emergency Services.** Emergency services means those health care services that are provided in a hospital or other emergency facility after the sudden onset of a medical condition that manifests itself by symptoms of such sufficient severity including, but not limited to, severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent person who possesses an average knowledge of health and medicine, to result in: (3-15-02)
- a.** Placing the Insured's health in serious jeopardy; (3-15-02)
- b.** Serious impairment to bodily functions; or (3-15-02)
- c.** Serious dysfunction of any bodily organ or part. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. COORDINATION OF BENEFITS.**

Coordination of Benefits shall be utilized on the Individual basic, standard, and catastrophic A, ~~and~~ catastrophic B plans, ~~and HSA compatible benefit plans~~ based upon IDAPA 18.01.74, "Coordination of Benefits".

~~(3-15-02)~~(8-03-05)T

**011. LIMITATIONS AND EXCLUSIONS.**

***There Are No Changes to Subsections 011.01 Through 011.30***

**31. Maternity.** Not a covered benefit under the HSA Compatible Plan.

(8-03-05)T

**32. Expenses Exceeding the Carrier's Allowable Amount.** Expenses and/or charges which exceed the carrier's allowable amount for a service or supply.

(8-03-05)T

**012. BENEFITS.**

Based on the provisions of Section 41-5511, Idaho Code, the Guaranteed Issue Schedule of Benefits Attachments for Basic Benefit Plan, Standard Benefit Plan, Catastrophic "A" Benefit Plan, and Catastrophic "B" Benefit Plan have been replaced by the new Idaho Individual High-Risk Plan Designs, as follows:

(3-15-02)

<b>BASIC BENEFIT PLAN</b>	
<b>Schedule of Benefits</b>	
<b>All Benefit Areas</b> - Lifetime Benefit Maximum per Carrier	\$500,000
Preventive Services - <b>Benefit Area "A"</b> Annual Benefit Maximum Subject to Deductible and Coinsurance Mammography benefits are not limited to the preventive services benefit	\$200
<b>Benefit Areas B, C, D, E, F</b>	
Calendar Year Deductible - Individual	\$500
Benefit Percentage	50%
Coinsurance Percentage	50%
Individual Out-of-Pocket Expense Maximum not including Deductible or Copayments	\$20,000
Normal Maternity Benefit Deductible - <b>Benefit Area "B"</b> Not applicable to involuntary complications of pregnancy	\$5,000
Organ Transplant - <b>Benefit Area "C"</b> Lifetime Maximum Benefit	\$150,000
Skilled Nursing Facility - <b>Benefit Area "C"</b> Annual Benefit Maximum	45 days
Rehabilitation Therapy - <b>Benefit Area "C"</b> Annual Inpatient Benefit Maximum	\$25,000
Rehabilitation Therapy - <b>Benefit Area "D"</b> Combined Annual Outpatient Benefit Maximum	\$2,000

<b>BASIC BENEFIT PLAN</b>	
Home Health Care Benefits - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Hospice Care - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Ambulance Service - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$2,000
Durable Medical Equipment - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$10,000
Psychiatric and Substance Abuse Services - <b>Benefit Area "F"</b> Covered benefit as an inpatient or outpatient combined Annual Benefit Maximum	\$5,000
Pharmacy - <b>Benefit Area "G"</b>	
Calendar Year Pharmaceutical Deductible - Individual	\$250
Benefit Percentage	50%
Coinsurance Percentage	50%
Does not apply to Out-of-Pocket Expense limit	

(3-15-02)

<b>STANDARD BENEFIT PLAN</b>	
<b>Schedule of Benefits</b>	
<b>All Benefit Areas</b> - Lifetime Benefit Maximum per Carrier	\$1,000,000
Preventive Services - <b>Benefit Area "A"</b> Annual Benefit Maximum Subject to Deductible and Coinsurance Mammography benefits are not limited to the preventive services benefit	\$200
<b>Benefit Areas B, C, D, E, F</b>	
Calendar Year Deductible - Individual	\$1,000
Benefit Percentage	70%
Coinsurance Percentage	30%
Individual Out-of-Pocket Expense Maximum not including Deductible or Copayments	\$10,000
Normal Maternity Benefit Deductible - <b>Benefit Area "B"</b> Not applicable to involuntary complications of pregnancy	\$5,000
Organ Transplant - <b>Benefit Area "C"</b> Lifetime Maximum Benefit	\$150,000
Skilled Nursing Facility - <b>Benefit Area "C"</b> Annual Benefit Maximum	45 days
Rehabilitation Therapy - <b>Benefit Area "C"</b> Annual Inpatient Benefit Maximum	\$25,000
Rehabilitation Therapy - <b>Benefit Area "D"</b> Combined Annual Outpatient Benefit Maximum	\$2,000

<b>STANDARD BENEFIT PLAN</b>	
Home Health Care Benefits - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Hospice Care - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Ambulance Service - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$2,000
Durable Medical Equipment - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$10,000
Psychiatric and Substance Abuse Services - <b>Benefit Area "F"</b> Covered benefit as an inpatient or outpatient combined Annual Benefit Maximum	\$5,000
Pharmacy - <b>Benefit Area "G"</b>	
Calendar Year Pharmaceutical Deductible - Individual	\$250
Benefit Percentage	50%
Coinsurance Percentage	50%
Does not apply to Out-of-Pocket Expense limit	

(3-15-02)

<b>CATASTROPHIC "A" BENEFIT PLAN</b>	
<b>Schedule of Benefits</b>	
<b>All Benefit Areas</b> - Lifetime Benefit Maximum per Carrier	\$1,000,000
Preventive Services - <b>Benefit Area "A"</b> Annual Benefit Maximum Subject to Deductible and Coinsurance Mammography benefits are not limited to the preventive services benefit	\$200
<b>Benefit Areas B, C, D, E, F</b>	
Calendar Year Deductible - Individual	\$2,000
Benefit Percentage	70%
Coinsurance Percentage	30%
Individual Out-of-Pocket Expense Maximum not including Deductible or Copayments	\$10,000
Normal Maternity Benefit Deductible - <b>Benefit Area "B"</b> Not applicable to involuntary complications of pregnancy	\$5,000
Organ Transplant - <b>Benefit Area "C"</b> Lifetime Maximum Benefit	\$150,000
Skilled Nursing Facility - <b>Benefit Area "C"</b> Annual Benefit Maximum	45 days
Rehabilitation Therapy - <b>Benefit Area "C"</b> Annual Inpatient Benefit Maximum	\$25,000
Rehabilitation Therapy - <b>Benefit Area "D"</b> Combined Annual Outpatient Benefit Maximum	\$2,000

<b>CATASTROPHIC "A" BENEFIT PLAN</b>	
Home Health Care Benefits - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Hospice Care - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Ambulance Service - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$2,000
Durable Medical Equipment - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$10,000
Psychiatric and Substance Abuse Services - <b>Benefit Area "F"</b> Covered benefit as an inpatient or outpatient combined Annual Benefit Maximum	\$5,000
Pharmacy - <b>Benefit Area "G"</b>	
Calendar Year Pharmaceutical Deductible - Individual	\$500
Benefit Percentage	50%
Coinsurance Percentage	50%
Does not apply to Out-of-Pocket Expense limit	

(3-15-02)

<b>CATASTROPHIC "B" BENEFIT PLAN</b>	
<b>Schedule of Benefits</b>	
<b>All Benefit Areas</b> - Lifetime Benefit Maximum per Carrier	\$1,000,000
Preventive Services - <b>Benefit Area "A"</b> Annual Benefit Maximum Subject to Deductible and Coinsurance Mammography benefits are not limited to the preventive services benefit	\$200
<b>Benefit Areas B, C, D, E, F</b>	
Calendar Year Deductible - Individual	\$5,000
Benefit Percentage	80%
Coinsurance Percentage	20%
Individual Out-of-Pocket Expense Maximum not including Deductible or Copayments	\$10,000
Normal Maternity Benefit Deductible - <b>Benefit Area "B"</b> Not applicable to involuntary complications of pregnancy	\$5,000
Organ Transplant - <b>Benefit Area "C"</b> Lifetime Maximum Benefit	\$150,000
Skilled Nursing Facility - <b>Benefit Area "C"</b> Annual Benefit Maximum	45 days
Rehabilitation Therapy - <b>Benefit Area "C"</b> Annual Inpatient Benefit Maximum	\$25,000
Rehabilitation Therapy - <b>Benefit Area "D"</b> Combined Annual Outpatient Benefit Maximum	\$2,000

<b>CATASTROPHIC "B" BENEFIT PLAN</b>	
Home Health Care Benefits - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Hospice Care - <b>Benefit Area "D"</b> Annual Benefit Maximum	\$5,000
Ambulance Service - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$2,000
Durable Medical Equipment - <b>Benefit Area "E"</b> Annual Benefit Maximum	\$10,000
Psychiatric and Substance Abuse Services - <b>Benefit Area "F"</b> Covered benefit as an inpatient or outpatient combined Annual Benefit Maximum	\$5,000
Pharmacy - <b>Benefit Area "G"</b>	
Calendar Year Pharmaceutical Deductible - Individual	\$500
Benefit Percentage	50%
Coinsurance Percentage	50%
Does not apply to Out-of-Pocket Expense limit	

(3-15-02)

<b>HSA – COMPATIBLE BENEFIT PLAN</b>	
<u>Schedule of Benefits</u>	
<b>All Benefit Areas -</b> Lifetime Benefit Maximum per Carrier	<u>\$1,000,000</u>
<b>Preventive Services - Benefit Area "A"</b> Annual Benefit Maximum Subject to Deductible and Coinsurance Mammography benefits are not limited to the preventive services benefit	<u>\$200</u>
<b>Benefit Areas C, D, E, F</b>	
Calendar Year Deductible - Individual	<u>\$3,000</u>
Family	<u>\$6,000</u>
Benefit Percentage	<u>60%</u>
Coinsurance Percentage	<u>40%</u>
Individual Out-of-Pocket Expense Maximum including Deductible or copayments, and coinsurance	<u>\$5,000</u>
Family Out-of-Pocket Expense Maximum	<u>\$10,000</u>
Maternity Benefit - <b>Benefit Area "B"</b> Not available under the HSA Compatible Benefit Plan	<u>Not Covered</u>
Organ Transplant - <b>Benefit Area "C"</b> Lifetime Maximum Benefit	<u>\$150,000</u>
Skilled Nursing Facility - <b>Benefit Area "C"</b> Annual Benefit Maximum	<u>45 days</u>

<u>Rehabilitation Therapy - <b>Benefit Area "C"</b></u> <u>Annual Inpatient Benefit Maximum</u>	<u>\$25,000</u>
<u>Rehabilitation Therapy - <b>Benefit Area "D"</b></u> <u>Combined Annual Outpatient Benefit Maximum</u>	<u>\$2,000</u>
<u>Home Health Care Benefits - <b>Benefit Area "D"</b></u> <u>Annual Benefit Maximum</u>	<u>\$5,000</u>
<u>Hospice Care - <b>Benefit Area "D"</b></u> <u>Annual Benefit Maximum</u>	<u>\$5,000</u>
<u>Ambulance Service - <b>Benefit Area "E"</b></u> <u>Annual Benefit Maximum</u>	<u>\$2,000</u>
<u>Durable Medical Equipment - <b>Benefit Area "E"</b></u> <u>Annual Benefit Maximum</u>	<u>\$10,000</u>
<u>Psychiatric and Substance Abuse Services - <b>Benefit Area "F"</b></u> <u>Covered benefit as an inpatient or outpatient combined</u> <u>Annual Benefit Maximum</u>	<u>\$5,000</u>
<u>Pharmacy - <b>Benefit Area "G"</b></u> <u>Calendar Year Pharmaceutical</u> <u>Subject to Deductible and Coinsurance</u>	<u>\$6,000</u>

(8-3-05)T

## **IDAPA 19 - BOARD OF DENTISTRY**

### **19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY**

**DOCKET NO. 19-0101-0501**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 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 54-912(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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 6, 2005, Idaho Administrative Bulletin, Volume 05-7, pages 54 through 58.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** 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 8th day of August, 2005.

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)

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## **IDAPA 27, TITLE 01, CHAPTER 01**

### **RULES OF THE IDAHO STATE BOARD OF DENTISTRY**

**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 05-7, July 6, 2005, pages 54 through 58.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.**



## **IDAPA 19 - BOARD OF DENTISTRY**

### **19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY**

#### **DOCKET NO. 19-0101-0502**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-912(4), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2005.

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

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

The Board of Dentistry proposes to create and issue a new oral conscious sedation permit, in addition to the two (2) existing sedation permits, to allow qualified dentists to administer oral medications (no intravenous administration) to sedate a patient to the level of conscious sedation (minimally depressed level of consciousness). An oral conscious sedation permit is warranted because many Idaho dentists want to sedate their patients for treatment but do not desire to do so by intravenous administration. The educational and patient experience requirements, required for issuance of the proposed oral conscious sedation permit, are consistent with the standards recommended by the American Dental Association. Additional requirements for the oral conscious sedation permit would include dental office and staff evaluations regarding mandatory emergency equipment and protocols.

The benefits of the oral conscious sedation permit to the dental profession and the public would be as follows:

- 1) Anxious or fearful patients could be sedated in order to receive treatment; and
- 2) The nature and length of treatment required for many dental procedures require that a patient be sedated for safety and comfort purposes.

In order to fully effectuate the proposed oral conscious sedation permit rules, the Board proposes to consolidate currently existing sedation rules and add necessary substantive provisions.

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

The current sedation permit application fee of \$300 will be applicable to the proposed oral conscious sedation permit. The effective period of the proposed oral conscious sedation permit will be five (5) years. The Board of Dentistry's authority to impose fees is found at Section 54-912(4), Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Notice of the proposed rulemaking was previously provided to interested parties.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael J. Sheeley, Executive Director, Idaho Board of Dentistry, at (208)334-2369.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 19th day of July, 2005.

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)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-0502**

**007. -- ~~008009.~~ (RESERVED).**

**~~009. DEFINITIONS (RULE 9).~~**

~~For the purposes of these rules, the following terms will be used, as defined below:~~ (7-1-93)

~~**01. Methods of Anxiety and Pain Control.**~~ (3-18-99)

~~**a. Local Anesthesia.** The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug.~~ (3-18-99)

~~**b. General Anesthesia.** An induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.~~ (3-18-99)

~~**c. Deep Sedation.** An induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.~~ (3-18-99)

~~**d. Conscious Sedation.** A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation.~~ (3-18-99)

~~**02. Routes of Administration.**~~ (3-18-99)

~~**a. Enteral.** Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual).~~ (3-18-99)

~~**b. Parenteral.** A technique of administration in which the drug bypasses the gastrointestinal (GI) tract (i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraocular (IO)).~~ (3-18-99)

~~**c. Transdermal/transmucosal.** A technique of administration in which the drug is administered by patch or iontophoresis.~~ (3-18-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**052. -- ~~054~~053. (RESERVED).**

**054. DEFINITIONS (RULE 54).**

For the purposes of these anesthesia rules, the following terms will be used, as defined below: ( )

**01. Methods of Anxiety and Pain Control.** ( )

**a.** Anxiolysis shall mean the process of the diminution or elimination of the patient's anxiety, apprehension or fear by the administration of a pharmacological agent that renders the patient relaxed but does not impair the patient's ability to maintain normal mental abilities and vital functions. An oral sedative agent can be administered in the treatment setting or prescribed for patient dosage prior to the appointment. ( )

**b.** Conscious sedation shall mean a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, and that is produced through the enteral or parenteral administration of a pharmacological or non-pharmacological method or a combination thereof. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation. Oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment. ( )

**c.** Deep sedation shall mean an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and that is produced by a pharmacological or non-pharmacological method or a combination thereof. ( )

**d.** General anesthesia shall mean an induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and that is produced by a pharmacological or non-pharmacological method or a combination thereof. ( )

**e.** Local anesthesia shall mean the elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. ( )

**f.** Nitrous oxide inhalation analgesia shall mean an induced controlled state of minimally depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide and oxygen, in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command. ( )

**02. Sedation Terms.** ( )

**a.** Advanced Cardiac Life Support (ACLS) shall mean an advanced cardiac life support course offered by a recognized accrediting organization. ( )

**b.** Monitor or monitoring shall mean the direct clinical observation of a patient during the administration of anesthesia by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures. ( )

**c.** Operator shall mean the supervising dentist or another person who is authorized by these rules or holds a permit to induce and administer the proper level of anesthesia/sedation. ( )

**d.** Titration shall mean the administration of small incremental doses of a drug until a desired clinical effect is observed. ( )

**03. Routes of Administration.** ( )

**a.** Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual). ( )

**b.** Inhalation. A technique of administration in which a gaseous or volatile agent is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed. ( )

**c.** Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract (i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraocular (IO)). ( )

**d.** Transdermal/transmucosal. A technique of administration in which the drug is administered by patch or iontophoresis. ( )

***Current Section 055 is being moved and renumbered to Section 061***

**055. ANXIOLYSIS (RULE 55).**

Persons licensed to practice dentistry in accordance with the Idaho Dental Practice Act and these rules may administer medication to patients for the purpose of relieving anxiety so long as the medication is given in a dosage that is within the current guidelines set forth for anxiolytic dosage on the manufacturer's package insert or other recognized drug reference and does not induce a state of depressed consciousness to the level of general anesthesia, deep sedation, or conscious sedation in the patient. ( )

**01. Patient Safety.** The administration of anxiolytics by means of titration or in combination with nitrous oxide inhalation analgesia is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of conscious sedation, deep sedation or general anesthesia. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of conscious sedation, deep sedation or general anesthesia. Nitrous oxide inhalation analgesia shall not be used in combination with anxiolytic medication except during the limited period of time required to administer a local anesthetic. Notwithstanding any other provision in these rules, a dentist shall initiate and regulate the administration of nitrous oxide inhalation analgesia when used in combination with anxiolysis. ( )

**02. Personnel.** A patient sedated for anxiolytic purposes in the dental office shall be monitored by an assistant trained in basic life support to observe appropriate physiologic parameters and assist in any support or resuscitation measures required. ( )

**056. LOCAL ANESTHESIA (RULE 56).**

Persons licensed to practice dentistry and dental hygiene in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer local anesthesia to patients. Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. ( )

**057. NITROUS OXIDE INHALATION ANALGESIA (RULE 57).**

Persons licensed to practice dentistry and dental hygiene and dental assistants certified in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer nitrous oxide inhalation analgesia to patients. Nitrous oxide inhalation analgesia when used in combination with other sedative agents may produce an alteration of the state of consciousness in a patient to the level of conscious sedation, deep sedation or general anesthesia. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of conscious sedation, deep sedation or general anesthesia. ( )

**01. Patient Safety.** In connection with the administration of nitrous oxide inhalation analgesia, a dentist shall: ( )

**a.** Evaluate the patient to insure that the patient is an appropriate candidate for nitrous oxide inhalation analgesia; ( )

**b.** Insure that any patient under nitrous oxide inhalation analgesia shall be monitored for such matters as response to verbal stimulation, oral mucosal color and vital signs; ( )

**c.** Insure that a second person shall be on the office premises who can immediately respond to any request from the person administering the nitrous oxide inhalation analgesia; and ( )

**d.** Insure that a qualified person is continuously monitoring the patient. ( )

**02. Required Facilities and Equipment.** Dental offices in which nitrous oxide sedation is administered to patients shall, at a minimum and in addition to emergency medications, maintain appropriate facilities and have equipment on site for immediate use as follows: ( )

**a.** A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system; ( )

**b.** An operating room sufficiently large to accommodate the patient and allow for delivery of appropriate care in an emergency situation; ( )

**c.** Suction equipment capable of aspirating gastric contents from the mouth and pharynx; ( )

**d.** A portable oxygen delivery system including full face masks and a bag-valve mask device capable of delivering positive pressure, oxygen-enriched ventilation to the patient; and ( )

**e.** An appropriately sized measuring device for taking a patient's blood pressure. ( )

**03. Personnel.** For nitrous oxide administration, personnel shall include: ( )

**a.** An operator; and ( )

**b.** An assistant trained in basic life support to monitor appropriate physiologic parameters and assist in any support or resuscitation measures required (the operator and the assistant may be the same person). ( )

**c.** Auxiliary personnel must have documented training in basic life support, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel must participate in periodic reviews of office emergency protocol. ( )

~~056058.~~ -- 059. (RESERVED).

**060. ADMINISTRATION OF CONSCIOUS SEDATION (RULE 60).**

Dentists licensed in the state of Idaho cannot use conscious sedation in the practice of dentistry unless they have obtained the proper conscious sedation permit from the Idaho State Board of Dentistry ~~by conforming with the following conditions:~~. A conscious sedation permit may be either limited or comprehensive. A limited conscious sedation permit authorizes dentists to administer conscious sedation by either enteral or combination inhalation-enteral routes of administration. A comprehensive conscious sedation permit authorizes a dentist to administer conscious sedation by enteral, combination inhalation-enteral or parenteral routes of administration. A dentist shall not administer conscious sedation to children under eighteen (18) years of age unless they have qualified for and been issued a comprehensive conscious sedation permit. (4-5-00)( )

**01. Requirements for a Limited Conscious Sedation Permit.** To qualify for a limited conscious sedation permit, a dentist applying for a permit must complete training in the use and administration of conscious sedation drugs to a level consistent with that prescribed in Part I and Part III of the American Dental Association's "ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as incorporated in Section 004 in these rules. The five (5) year requirement regarding the required training for a limited conscious sedation permit shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. To obtain a limited conscious sedation permit, a dentist must provide certification of the following: ( )

**a.** Completion of an American Dental Association accredited post-doctoral training program within five (5) years of the date of application for a limited conscious sedation permit that included documented training of a minimum of eighteen (18) hours of didactic education plus twenty (20) clinically-oriented experiences which provided competency in enteral and combination inhalation-enteral conscious sedation. Clinically-oriented experiences may include either supervised administration or group observations on patients undergoing enteral or combination inhalation-enteral conscious sedation; or ( )

**b.** Completion of a Board of Dentistry approved course of instruction within five (5) years of the date of application for a limited conscious sedation permit that included documented training of a minimum of eighteen (18) hours of didactic education plus twenty (20) clinically-oriented experiences which provided competency in enteral and combination inhalation-enteral conscious sedation. Clinically-oriented experiences may include either supervised administration or group observations on patients undergoing enteral or combination inhalation-enteral conscious sedation; and ( )

**c.** Proof of completion and current certification of Advanced Cardiac Life Support training or its equivalent. ( )

**012. ~~General~~ Requirements for a Comprehensive Conscious Sedation Permit.** A dentist applying for a permit to administer comprehensive conscious sedation shall provide proof that the dentist has received formal training and certification in the use of conscious sedation drugs as described in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," ~~as referred to in Subsection 004.01.b-~~ published by the American Dental Association and incorporated by reference into these rules within the five (5) year period immediately prior to the date of application for a comprehensive conscious sedation permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application ~~or to applicants who verify that they have regularly administered conscious sedation to patients within the twelve (12) month period immediately prior to the date of application. An applicant must verify the administration of conscious sedation on at least two (2) occasions in each of the twelve (12) months immediately prior to the date of application to be considered to have regularly administered conscious sedation.~~ The formal training program shall: ~~(4-2-03)~~( )

**a.** Be sponsored by or affiliated with a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or a teaching hospital or facility approved by the Board of Dentistry; and (4-5-00)

**b.** Consist of a minimum of sixty (60) hours didactic education and twenty (20) hours patient contact. Patient contact includes the administration of the intravenous (IV) sedation and management by the participant from induction through emergence. (3-18-99)

**c.** Include the issuance of a certificate of successful completion that indicates the type, number of hours, and length of training received. (3-18-99)

**d.** In addition, the dentist must show proof of current certification of Advanced Cardiac Life Support training or its equivalent. (3-15-02)

**03. General Requirements for Limited and Comprehensive Conscious Sedation Permits.** ( )

**02a. Facility Requirements.** The dentist must have a properly equipped facility for the administration of conscious sedation staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Idaho State Board of Dentistry. (3-18-99)

**03b. Personnel.** For conscious sedation, the minimum number of personnel shall be two (2) including: (10-1-87)

**a.i.** The operator; and (10-1-87)

**b.ii.** An assistant trained to monitor appropriate physiologic parameters and assist in any support or

resuscitation measures required. (10-1-87)

**eiii.** Auxiliary personnel must have documented training in basic life support, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (3-18-99)

**04c. Permit Renewal.** Renewal of the permit will be required every five (5) years in conjunction with the routine dental licensure renewal. Proof of a minimum of twenty-five (25) credit hours continuing education in conscious sedation will be required to renew a permit. A fee shall be assessed to cover administrative costs. (4-2-03)

**05d. Reinstatement.** A dentist may make application for the reinstatement of an expired or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's expiration or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in conscious sedation techniques for each year subsequent to the date upon which the permit expired or was surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (4-2-03)

**055061. GENERAL ANESTHESIA AND DEEP SEDATION (RULE 5561).**

Dentists licensed in the state of Idaho cannot use general anesthesia or deep sedation techniques in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (10-1-87)

**01. General Requirements.** A dentist applying for a permit to administer general anesthesia and deep sedation shall provide proof that the dentist: (10-1-87)

**a.** Has completed a minimum of one (1) year of advance training in anesthesiology and related academic subjects beyond the undergraduate dental school level within the five (5) year period immediately prior to the date of application for a permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application ~~or to applicants who verify that they have regularly administered general anesthesia or deep sedation to patients within the twelve (12) month period immediately prior to the date of application. An applicant must verify the administration of general anesthesia or deep sedation on at least two (2) occasions in each of the twelve (12) months immediately prior to the date of application to be considered to have regularly administered general anesthesia or deep sedation.~~ This training is described in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as ~~referred to in Subsection 004.01.b.~~ incorporated by reference in Section 004 of these rules; or ~~(4-2-03)( )~~

**b.** Is a diplomate of the American Board of Oral and Maxillofacial Surgery; or (10-1-87)

**c.** Is a member of the American Association of Oral and Maxillofacial Surgeons; or (10-1-87)

**d.** Is a Fellow of the American Dental Society of Anesthesiology; and (4-5-00)

**e.** Has current Certification of Advanced Cardiac Life Support Training or its equivalent; and (3-15-02)

**f.** Has an established protocol or admission to a recognized hospital. (3-18-99)

**02. Facility Requirements.** The dentist must have a properly equipped facility for the administration of general anesthesia, staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Board. The Board adopts the standards incorporated by reference in Section 004 of these rules, regarding approval of equipment within the facility as set forth by the American Association of Oral and Maxillofacial Surgeons in their office anesthesia evaluation manual ~~(see Subsection 004.01.a.)~~ (3-15-02)( )

**03. Personnel.** For general anesthesia and deep sedation techniques, the minimum number of personnel shall be three (3) including: (10-1-87)

**a.** A qualified person to direct the sedation as ~~described~~ specified in Subsections 055-01.a. through 055-01.f. Section 061 of this rule; and ~~(3-18-99)~~( )

**b.** A qualified person whose primary responsibilities are observation and monitoring of the patient and who has documented current CPR certification; and (3-18-99)

**c.** An assistant for the operator who has documented current CPR certification. (3-18-99)

**04. Conscious Sedation.** A dentist holding a permit to administer general anesthesia under this rule may also administer conscious sedation. (3-18-99)

**05. Permit Renewal.** Renewal of the permit will be required every five (5) years in conjunction with the routine dental licensure renewal. Proof of a minimum of twenty-five (25) credit hours of continuing education in general anesthesia and deep sedation techniques will be required to renew a permit. A fee shall be assessed to cover administrative costs. (4-2-03)

**06. Reinstatement.** A dentist may make application for the reinstatement of an expired or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's expiration or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in general anesthesia and deep sedation techniques for each year subsequent to the date upon which the permit expired or was surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (4-2-03)

**~~061~~062. USE OF OTHER ANESTHESIA PERSONNEL (RULE ~~612~~).**

Dentists performing dental procedures in a dental office who utilize the services of an anesthesiologist, a certified registered nurse anesthetist (CRNA), or another dentist with an anesthesia permit, must possess an anesthesia permit required under these rules for the level of anesthesia being provided to the patient. (4-5-00)

**~~062~~063. INCIDENT REPORTING (RULE ~~623~~).**

Any anesthesia permit holder shall report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient to whom conscious sedation or general anesthesia was administered. (3-18-99)

**~~063~~064. SUSPENSION, REVOCATION OR RESTRICTION OF ANESTHESIA PERMIT (RULE ~~634~~).**

The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict an anesthesia a permit issued pursuant to Sections ~~05560~~ and ~~0601~~ of these rules. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. (3-18-99)

**065. DETERMINATION OF DEGREE OF SEDATION BY THE BOARD (RULE 65).**

in any matter under review or in any proceeding being conducted in which the board must determine the degree of sedation or level of consciousness of a patient, the Board may base its findings or conclusions on, among other matters, The following: ( )

**01. Medication and Dosage.** The type and dosage of medication(s) that was administered to the patient as well as the route of administration of the medication(s); and ( )

**02. Expected Results.** The result that can reasonably be expected from the medication(s) administered when considering the physical and psychological status of the patient. ( )

**~~064~~066. -- 999. (RESERVED).**



## IDAPA 19 - BOARD OF DENTISTRY

### 19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

#### DOCKET NO. 19-0101-0503

#### 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 pursuant to Section 54-912(4), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2005.

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:

**Background Information:** The Board has approximately 2700 dentist and dental hygienist licensees who are required to annually renew their licenses, including payment of a license renewal fee. The statutory deadline for renewal of a dental hygiene license is April 1<sup>st</sup> of each year and the statutory deadline for renewal of a dental license is October 1<sup>st</sup> of each year. The Board mails renewal applications to all licensees approximately thirty (30) days prior to the renewal deadline. License renewal fees are deposited to the Board's dedicated fund and are used to fund the Board's operation and regulatory functions.

**Justification:** The renewal of dental and dental hygiene licenses is a very labor intensive and expensive effort. The Board's staff (2.75 positions) spends significant amounts of time during the months of March, April, September and October processing license renewals. Aside from mailing the renewal applications, the Board also mails a notice to each licensee who fails to renew by the statutory deadline and, in addition, mails a certified letter to each licensee who fails to renew by the conclusion of the thirty (30) day grace period. The proposed biennial licensing system would allow the Board to stagger the renewal of dental and dental hygiene licenses so that only one (1) renewal would occur in each calendar year. This would theoretically reduce staff time and costs associated with license renewals by 50%. Other medical boards in Idaho renew licenses on a multiple year basis. Because a change to biennial licensing would also require amendments to the Board's statute, these proposed rules would not be effective until July 1, 2006.

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

This rule does not impose or increase the existing license renewal fees. This rule proposes to change the license renewal cycle from annual to biennial, with the result being that every license will be effective for two (2) years rather than the current one (1) year period. The rule proposes to increase the current annual license fees to reflect the longer effective period of the proposed two (2) year license. Under the proposal, an active status dental hygienist will pay \$140 for a two (2) year license as opposed to currently paying \$70.00 for a one (1) year license. In effect, the current license fees will not increase, but the fee amount will be larger because it is paid every two (2) years rather than yearly.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Notice of the proposed rulemaking was previously provided to interested parties.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael J. Sheeley, Executive Director, Idaho Board of Dentistry, at (208) 334-2369.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 26th day of July, 2005.

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)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-0503**

**012. LICENSE AND APPLICATION FEES (RULE 12).**

The ~~annual~~ license fees and application fees shall be as follows:

- |  |                             |
|--|-----------------------------|
|  | <del>(7-1-93)</del> (____)  |
| <b>01. Application Fees for Dentists:</b>  | (7-1-91)                    |
| <b>a. General:</b>   | (3-18-99)                   |
| i. By examination -- one hundred dollars (\$100).  | (3-18-99)                   |
| ii. By credentials -- six hundred dollars (\$600).   | (3-18-99)                   |
| <b>b. Specialty:</b>   | (7-1-91)                    |
| i. By examination -- one hundred dollars (\$100).  | (7-1-91)                    |
| ii. By credentials -- six hundred dollars (\$600).   | (3-18-99)                   |
| <b>02. Application Fees for Dental Hygienists:</b>   | (7-1-91)                    |
| <b>a. By examination -- fifty dollars (\$50).</b>  | (7-1-91)                    |
| <b>b. By credentials -- one hundred and fifty dollars (\$150).</b>   | (7-1-92)                    |
| <b>03. <u>Annual Biennial</u> License Fees for Dentists:</b>   | <del>(3-18-99)</del> (____) |
| <b>a. Active -- <del>one</del> <u>three</u> hundred <del>and fifty</del> dollars (<del>\$153</del><u>00</u>).</b>    | <del>(3-18-99)</del> (____) |
| <b>b. Inactive -- <del>seventy-five</del> <u>one hundred and fifty</u> dollars (<del>\$75</del><u>150</u>).</b>      | <del>(7-1-91)</del> (____)  |
| <b>c. Specialty -- <del>one</del> <u>three</u> hundred <del>and fifty</del> dollars (<del>\$153</del><u>00</u>).</b> | <del>(3-18-99)</del> (____) |
| <b>04. <u>Annual Biennial</u> License Fees for Hygienists:</b>   | <del>(3-18-99)</del> (____) |
| <b>a. Active -- <del>seventy</del> <u>one hundred and forty</u> dollars (<del>\$71</del><u>40</u>).</b>              | <del>(3-18-99)</del> (____) |
| <b>b. Inactive -- <del>forty</del> <u>eighty</u> dollars (<del>\$4</del><u>80</u>).</b>                              | <del>(7-1-91)</del> (____)  |
| <b>05. Application Fees for General Anesthesia and Conscious Sedation Permits:</b>                                   | (4-2-03)                    |

- a. Initial Application -- three hundred dollars (\$300). (4-2-03)
- b. Renewal Application -- three hundred dollars (\$300). (4-2-03)
- c. Reinstatement Application -- three hundred dollars (\$300). (4-2-03)

**013. FEES -- GENERAL (RULE 13).**

A license shall not be issued or renewed unless the fee is paid. Application fees are not refunded. License fees shall be prorated from date of licensure to the next ~~annual~~ biennial renewal date. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**029. DENTAL HYGIENISTS - LICENSE ENDORSEMENTS (RULE 29).**

Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, and these rules, the Board may grant license endorsements to qualified dental hygienists as follows: (4-6-05)

**01. Extended Access Dental Hygiene Endorsement.** Upon application, the Board may grant an extended access dental hygiene endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: (4-6-05)

a. The person has been licensed as a dental hygienist during the two (2) year period immediately prior to the date of application for an extended access dental hygiene endorsement; (4-6-05)

b. For a minimum of one thousand (1000) total hours within the previous two (2) years, the person has either been employed as a dental hygienist in supervised clinical practice or has been engaged as a clinical practice educator in an approved dental hygiene school; (4-6-05)

c. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under general supervision in an extended access oral health care program. (4-6-05)

**02. Extended Access Dental Hygiene Endorsement Exception.** Any person holding an unrestricted active status dental hygienist's license issued by the Board who is employed as a dental hygienist in an extended access oral health care program in this state shall be granted an extended access dental hygiene endorsement without being required to satisfy the experience requirements specified in this rule. (4-6-05)

**03. Volunteer Dental Hygiene Services.** A person holding an unrestricted active status dental hygienist's license issued by the Board may provide dental hygiene services in an extended access oral health care program without being issued an extended access dental hygiene license endorsement under the following circumstances: (4-6-05)

a. The dental hygiene services must be performed in an extended access oral health care program under the supervision of a dentist who is employed or retained by or is a volunteer for the program; (4-6-05)

b. The dental hygiene services performed shall be limited to oral health screening, preparation of health history, fluoride treatment, non-surgical periodontal treatment, oral prophylaxis, the application of caries preventative agents, the application of pit and fissure sealants with recommendation that patient will be seen by a dentist and preventive dental health instruction; (4-6-05)

c. The dental hygienist must perform the dental hygiene services on a volunteer basis and shall not accept any form of remuneration for providing the services; and (4-6-05)

d. The dental hygienist may not provide dental hygiene services under this provision for more than

five (5) days within any calendar month. (4-6-05)

**04. Renewal.** Upon payment of the appropriate ~~annual~~ license fee and completion of required continuing education credits specified for a dental hygiene license endorsement, a person meeting all other requirements for renewal of a license to practice dental hygiene shall also be entitled to renewal of a dental hygiene license endorsement ~~upon April 1 of each year~~ for the effective period of the license. An endorsement shall immediately expire and be cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board or upon a person's failure to complete the required continuing education credits. (~~4-6-05~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. CONTINUING EDUCATION FOR DENTISTS (RULE 50).**

Effective October 1994, renewal of any active dental license will require evidence of completion of continuing education or volunteer dental practice that meets the following requirements. (4-6-05)

**01. Requirements:** (3-18-99)

**a.** All active dentists must hold a current CPR card. (7-1-93)

**b.** All active dentists shall acquire ~~fifteen~~ thirty (~~15~~30) credits of continuing education in each biennial renewal ~~year~~ period. One (1) credit is defined as one (1) hour of instruction. (~~7-1-93~~)(    )

**c.** Continuing education must be oral health/health-related for the professional development of a dentist. The ~~fifteen~~ thirty (~~15~~30) credits shall be obtained through continuing education courses, correspondence courses, college credit courses, and viewing of videotape or listening to other media devoted to dental education. (~~3-18-99~~)(    )

**d.** A dentist holding an active status license issued by the Board shall be allowed one (1) credit of continuing education for every two (2) hours of verified volunteer dental practice performed during the biennial renewal ~~year~~ period up to a maximum of ~~five~~ ten (~~5~~10) credits. (~~4-6-05~~)(    )

**e.** Any person who is licensed as an active status dentist during any biennial licensing period shall be required at the time of the next successive renewal period to report a prorated amount of continuing education credits as specified by the Board. (    )

**02. Documentation.** In conjunction with ~~the annual~~ license renewal, the dentist shall provide a list of continuing education credits obtained and verification of hours of volunteer dental practice performed and certify that the minimum requirements were completed in the ~~one (1) year~~ biennial licensing period. (~~4-6-05~~)(    )

**051. CONTINUING EDUCATION FOR DENTAL HYGIENISTS (RULE 51).**

Effective April 1994, renewal of any active dental hygiene license or dental hygiene license endorsement will require evidence of completion of continuing education or volunteer dental hygiene practice that meets the following requirements. (4-6-05)

**01. Requirements for Renewal of an Active Status Dental Hygiene License:** (4-6-05)

**a.** All active dental hygienists must hold a current CPR card. (6-2-92)

**b.** All active dental hygienists shall acquire ~~twelve~~ twenty-four (~~12~~24) credits of continuing education in each biennial renewal ~~year~~ period. One (1) credit is defined as one (1) hour of instruction. (~~6-2-92~~)(    )

**c.** Continuing education must be oral health/health-related education for the professional development of a dental hygienist. The ~~twelve~~ twenty-four (~~12~~24) credits shall be obtained through continuing

education courses, correspondence courses, college credit courses, viewing of videotape or listening to other media devoted to dental hygiene education. ~~(3-18-99)~~( )

**d.** A dental hygienist holding an active status license issued by the Board shall be allowed one (1) credit of continuing education for every two (2) hours of verified volunteer dental hygiene practice performed during the biennial renewal ~~year~~ period up to a maximum of ~~five~~ ten (510) credits. ~~(4-6-05)~~( )

**e.** Any person who is licensed as a dental hygienist during any biennial licensing period shall be required at the time of the next successive renewal period to report a prorated amount of continuing education credits as specified by the Board. ( )

**02. Requirements for Renewal of an Extended Access Dental Hygiene License Endorsement.** In addition to any other continuing education requirements for renewal of a dental hygiene license, a person granted an extended access dental hygiene license endorsement shall complete ~~six~~ twelve (612) credits of continuing education in each biennial renewal ~~year~~ period in the specific practice areas of medical emergencies, local anesthesia, oral pathology, care and treatment of geriatric, medically compromised or disabled patients and treatment of children. Any person who is issued an extended access dental hygiene license endorsement during any biennial licensing period shall be required at the time of the next renewal period to report a prorated amount of the continuing education credits required in Section 051 of this rule, as specified by the Board. ~~(4-6-05)~~( )

**03. Documentation.** In conjunction with ~~the annual~~ license and endorsement renewal, the dental hygienist shall provide a list of continuing education credits obtained and verification of hours of volunteer dental hygiene practice performed and certify that the minimum requirements were completed in the ~~one (1) year~~ biennial license period. ~~(4-6-05)~~( )

## IDAPA 20 - DEPARTMENT OF LANDS

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

DOCKET NO. 20-0201-0501

#### NOTICE OF RULEMAKING - PROPOSED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 58-104, Idaho Code.

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

**Monday September 19, 2005**  
7:00 p.m.  
Lodge at River's Edge,  
615 Main,  
Orofino, ID

**Tuesday September 20, 2005**  
7:00 p.m.  
Idaho Department of Lands,  
555 Deinhard Lane,  
McCall, ID

**Wednesday September 21, 2005**  
7:00 p.m.  
Idaho Department of Lands,  
3780 Industrial Avenue S,  
Coeur d'Alene, ID

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:

These changes are being made upon the recommendation of the Idaho Forest Practices Act Advisory Committee, based upon the 2002 Forest Practices Interagency Audit Report. The changes include: amending the stream protection rules pertaining to shade, large organic debris and slash removal from streams; clarifying the rules pertaining to stream crossings; and reuse of existing roads within stream protection zones. New language within the rule is proposed for prescribed burning within stream protection zones.

**FEE SUMMARY:** No fee or charge is to be imposed or increased.

**FISCAL IMPACT:** There is no impact to the State general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Idaho Forest Practices Act Advisory Committee (FPAAC) has been discussing the proposed rule changes for the past three years. The FPAAC consists of forest landowners and operators, private citizens and agency representatives that have already sought input from their constituent organizations are the interest groups that will be directly affected by the proposed rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Craig Foss, Chief – Bureau of Forestry Assistance at (208) 769-1525.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0201-0501

001. TITLE AND SCOPE.

01. **Title.** These rules shall be cited as IDAPA 20.02.01, "Rules Pertaining to the Idaho Forest Practices Act". ( )

02. **Scope.** These rules constitute the minimum standards for the conduct of forest practices on forest land and describe administrative procedures necessary to implement those standards. (7-1-96)( )

(BREAK IN CONTINUITY OF SECTIONS)

004. **INCORPORATION BY REFERENCE.**

There are no documents incorporated herein by reference. ( )

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

The principal place of business of the Idaho Department of Lands is the Director's Office at 954 W. Jefferson, Boise, Idaho 83720 and is open from 8 a.m. to 5 p.m. (MST), except Saturday, Sunday and legal holidays. The mailing address is Idaho Department of Lands, PO Box 83720, Boise, Idaho 83720-0050. The telephone of the office is (208) 334-0200. ( )

006. **PUBLIC RECORDS ACT COMPLIANCE.**

All records relating to this chapter are public records except to the extent such records are by law exempt from disclosure. ( )

~~007~~ -- 009. (RESERVED).

010. **DEFINITIONS.**

Unless otherwise required by context as used in these rules: (10-14-75)

01. **Act.** The Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (7-1-96)

02. **Acceptable Tree Species.** Any of the tree species normally marketable in the region, which are suitable to meet stocking requirements. Acceptable trees must be of sufficient health and vigor to assure growth and harvest. (7-1-96)

03. **Additional Hazard.** The debris, slashings, and forest fuel resulting from a forest practice. (10-14-75)

04. **Average DBH.** Average diameter in inches of trees cut or to be cut, measured at four and one-half (4.5) feet above mean ground level on standing trees. All trees to be cut that do not have a measurable DBH will fall in the one inch (1") class. (7-1-96)

05. **Best Management Practice (BMP).** A practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices. BMPs shall include, but not be limited to, those management practices included in these rules. (9-11-90)

06. **Board.** The Idaho State Board of Land Commissioners or its designee. (10-14-75)

07. **Buffer Strip.** A protective area adjacent to an area requiring special attention or protection. (10-14-75)

**08. Chemicals.** Substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, as defined in the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code, fertilizers, soil amendments, road dust abatement products and other materials that may present hazards to the environment. (7-1-98)

**09. Clear Cut.** A timber harvest where all merchantable trees are removed and the residual stocking is below the minimum stocking levels of Subsection 050.04. ( )

**0910. Constructed Skid Trail.** A skid trail created by the deliberate cut and fill action of a dozer or skidder blade resulting in a road-type configuration. (7-1-96)

**101. Commercial Products.** Saleable forest products of sufficient value to cover cost of harvest and transportation to available markets. (~~10-14-75~~)( )

**12. Condition of Adjoining Area.** Those fuel conditions in adjoining areas that relate to spread of fire and to economic values of the adjoining area. (1-24-78)

**123. Contaminate.** To introduce into the atmosphere, soil, or water sufficient quantities of substances that are injurious to public health, safety, or welfare or to domestic, commercial, industrial, agricultural or recreational uses or to livestock, wildlife, fish or other aquatic life. (~~10-14-75~~)( )

**134. Cross-Ditch.** A diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation, duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion. (3-13-90)

**145. Cull.** Nonmerchantable, alive, standing trees of greater height than twenty (20) feet. (1-24-78)

**156. Department.** The Idaho Department of Lands. (10-14-75)

**167. Deterioration Rate.** Rate of natural decomposition and compaction of fuel debris which decreases the hazard and varies by site. (1-24-78)

**178. Director.** The Director of the Idaho Department of Lands or his designee. (10-14-75)

**189. Emergency Forest Practice.** A forest practice initiated during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event to minimize damage to forest lands, timber, or public resources. (10-14-75)

**1920. Fertilizers.** Any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment. (10-14-75)

**201. Fire Trail.** Access routes that are located and constructed in a manner to be either useful in fire control efforts or deterring the fire spread in the hazard area. (10-14-75)

**212. Forest Land.** Federal, state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes federal, state and private land from which forest tree species have been removed but have not yet been restocked. It does not include land affirmatively converted to uses other than the growing of forest tree species. (7-1-96)

**223. Forest Practice.** (10-14-75)

**a.** The harvesting of forest tree species including felling, bucking, yarding, decking, loading and hauling; road construction, improvement or maintenance including installation or improvement of bridges, culverts or structures which convey stream flows within the operating area; also including the clearing of forest land for conversion to non-forest use when harvest occurs; (7-1-98)



- b.** Road construction, reconstruction or maintenance of existing roads including installation or improvement of bridges, culverts or structures which convey streams not within the operating area associated with harvesting of forest tree species; (7-1-98)
- c.** Reforestation; (10-14-75)
- d.** Use of chemicals for the purpose of managing forest tree species or forest land; (7-1-98)
- e.** The management of slash resulting from harvest, management or improvement of forest tree species or the use of prescribed fire on forest land. (7-1-98)
- f.** “Forest Practice” shall not include preparatory work such as tree marking, surveying, and road flagging or removal or harvesting of incidental vegetation from forest lands; such as berries, ferns, greenery, mistletoe, herbs, mushrooms, or other products which cannot normally be expected to result in damage to forest soils, timber, or public resources. (10-14-75)
- 234. Forest Regions.** Two (2) regions of forest land: one (1) being north of the Salmon River and one (1) being south of the Salmon River. (7-1-96)
- 245. Fuel Quantity.** The diameter, the number of stems and the predominate species to be cut or already cut, and the size of the continuous thinning block all of which determine quantity of fuel per unit of area. (1-24-78)
- 256. Ground Based Equipment.** Mobile equipment such as tractors, dozers, skidders and mechanized harvesters used for harvesting, site preparation or hazard reduction. This does not include cable systems associated with stationary yarding equipment. (7-1-96)
- 267. Habitat Types.** Forest land capable of producing similar plant communities at climax. (7-1-96)
- 278. Harvesting.** A commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use. (10-14-75)
- 289. Hazard.** Any vegetative residue resulting from a forest practice which constitutes fuel. (1-24-78)
- 2930. Hazard Offset.** Improvements or a combination of practices which reduces the spread of fire and increases the ability to control fires. (10-14-75)
- 301. Hazard Points.** The number of points assigned to certain hazardous conditions on an operating area, to actions designed to modify conditions on the same area or to actions by the operator, timber owner or landowner to offset the hazardous conditions on the same area. (1-24-78)
- 312. Hazard Reduction.** The burning or physical reduction of slash by treatment in some manner which will reduce the risk from fire after treatment. (10-14-75)
- 323. Lake.** A body of perennial standing open water, natural or human-made, larger than one (1) acre in size. Lakes include the beds, banks or wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, settling or gravel ponds. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)
- 334. Landowner.** A person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest lands, including the state. (10-14-75)
- 345. Large Organic Debris (LOD).** Live or dead trees and parts or pieces of trees that are large enough or long enough or sufficiently buried in the stream bank or bed to be stable during high flows. Pieces longer than the channel width or longer than twenty (20) feet are considered stable. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form. (3-13-90)

- 356. Merchantable Material.** That portion of forest tree species suitable for the manufacture of commercial products which can be merchandised under normal market conditions. (10-14-75)
- 367. Merchantable Stand of Timber.** A stand of trees that will yield logs or fiber: (7-1-96)
- a.** Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; (10-14-75)
- b.** Of sufficient value at least to cover all costs of harvest and transportation to available markets. (10-14-75)
- 378. Noncommercial Forest Land.** Habitat types not capable of producing twenty (20) cubic feet per acre per year. (7-1-96)
- 389. Operator.** A person who conducts or is required to conduct a forest practice. (10-14-75)
- 390. Operating Area.** That area where a forest practice is taking place or will take place. (1-24-78)
- 401. Ordinary High Water Mark.** That mark on all water courses, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter. (10-14-75)
- 412. Outstanding Resource Water.** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. ORW constitutes as outstanding national or state resource that requires protection from nonpoint activities, including forest practices, that may lower water quality. (7-1-96)
- 423. Partial Cutting.** The well distributed removal of a portion of the merchantable volume in a stand of timber. This includes seed tree, shelterwood, or individual tree selection harvesting techniques. (10-14-75)
- 434. Prescribed Fire.** The controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel moisture and soil moisture, to allow the fire to be confined to a predetermined area and at the same time to produce the intensity of heat and rate of spread required to meet planned objectives. (7-1-96)
- 445. Present Condition of Area.** The amount or degree of hazard present before a thinning operation commences. (1-24-78)
- 456. Public Resource.** Water, fish, and wildlife, and in addition means capital improvements of the State or its political subdivisions. (10-14-75)
- 467. Reforestation.** The establishment of an adequately stocked stand of trees of species acceptable to the department to replace the ones removed by a harvesting or a catastrophic event on commercial forest land. (10-14-75)
- 478. Relief Culvert.** A structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity. (10-14-75)
- 489. Rules.** Rules adopted by the Board pursuant to Section 38-1304, Idaho Code. (7-1-96)
- 4950. Slash.** Any vegetative residue three inches (3") and under in diameter resulting from a forest practice or the clearing of land. (7-1-96)
- 501. Site.** An area considered as to its ecological factors with reference to capacity to produce forest

vegetation; the combination of biotic, climatic, and soil conditions of an area. (10-14-75)

**542. Site Factor.** A combination of percent of average ground slope and predominate aspect of the forest practice area which relate to rate of fire spread. (1-24-78)

**543. Site Specific Best Management Practice.** A BMP that is adapted to and takes account of the specific factors influencing water quality, water quality objectives, on-site conditions, and other factors applicable to the site where a forest practice occurs, and which has been approved by the Department, or by the Board in consultation with the Department and the Forest Practices Advisory Committee. (7-1-96)

**544. Size of Thinning Block.** Acres of continuous fuel creating an additional hazard within a forest practice area. Distance between the perimeter of thinning blocks containing continuous fuel must be a minimum of six (6) chains apart to qualify as more than one (1) block. (1-24-78)

**545. Snags.** Dead, standing trees twenty (20) feet and greater in height. (1-24-78)

**556. Soil Erosion.** Movement of soils resulting from forest practices. (10-14-75)

**567. Soil Stabilization.** The minimizing of soil movement. (10-14-75)

**578. State.** The state of Idaho or other political subdivision thereof. (10-14-75)

**589. Stream.** A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

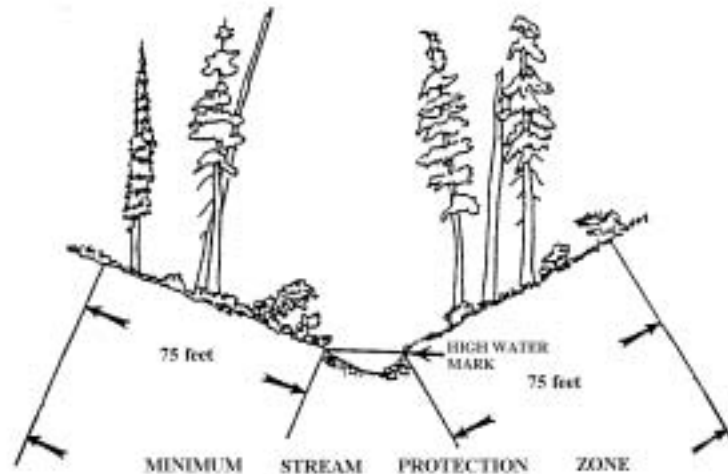
**a.** Class I streams are used for domestic water supply or are important for the spawning, rearing or migration of fish. Such waters shall be considered to be Class I upstream from the point of domestic diversion for a minimum of one thousand three hundred and twenty (1,320) feet. (11-7-86)

**b.** Class II streams are usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, consider streams as Class II where the total upstream watershed is less than two hundred and forty (240) acres in the north forest region and four hundred and sixty (460) acres in the south forest region. Their principle value lies in their influence on water quality or quantity downstream in Class I streams. (7-1-96)

**c.** Class I Stream Protection Zone means the area encompassed by a slope distance of seventy-five (75) feet on each side of the ordinary high water marks. (Figure 1.) (7-1-96)

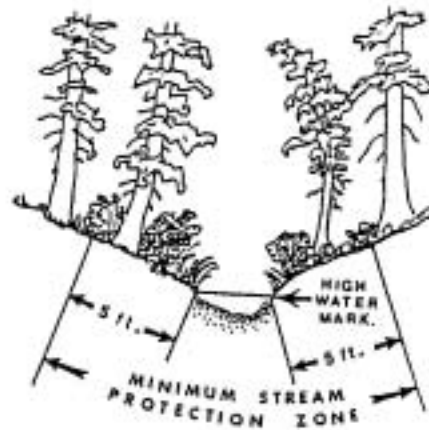
**FIGURE 1**

CLASS 1 STREAM PROTECTION ZONE



d. Class II Stream Protection Zone means the area encompassed by a minimum slope distance of thirty (30) feet on each side of the ordinary high water marks. (Figure 2.) For Class II streams that do not contribute surface flow into Class I streams, provide soil stabilization and water filtering effects by leaving undisturbed soils in widths sufficient to prevent washing of sediment. In no case shall this width be less than five (5) feet slope distance on each side of the ordinary high water marks. (7-1-96)

FIGURE 2  
CLASS II STREAM PROTECTION ZONE



**5960. Timber Owner.** A person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land. (10-14-75)

**601. Time of Year of Forest Practice.** Those combinations of months during which time the forest practice is taking place. Points assigned are: October through December - two (2) points; August through September - four (4) points; January through April - seven (7) points; May through July - ten (10) points. (1-24-78)

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. TIMBER HARVESTING.**

**01. Purpose.** Harvesting of forest tree species is a part of forest management by which wood for human use is obtained and by which forests are established and tended. It is recognized that during harvesting operations there will be a temporary disturbance to the forest environment. It is the purpose of these rules to establish minimum standards for forest practices that will maintain the productivity of the forest land and minimize soil and debris entering streams and protect wildlife and fish habitat. (10-14-75)

**02. Quality of Residual Stocking.** Reforestation is required if harvesting reduces stocking of acceptable trees below minimums of Subsection 050.04. (7-1-96)

**03. Soil Protection.** Select for each harvesting operation the logging method and type of equipment adapted to the given slope, landscape and soil properties in order to minimize soil erosion. (8-13-85)

**a.** Ground based skidding shall not be conducted if it will cause rutting, deep soil disturbance, or accelerated erosion. On slopes exceeding forty-five percent (45%) gradient and which are immediately adjacent to a Class I or II stream, ground based skidding shall not be conducted except with an approved variance. Where slopes in the area to be logged exceed forty-five percent (45%) gradient the operator, landowner or timber owner shall notify the department of these steep slopes upon filing the notification as provided for in Subsection 020.05. (7-1-96)

**b.** Limit the grade of constructed skid trails on geologically unstable, saturated, or highly erodible or easily compacted soils to a maximum of thirty percent (30%). (7-1-96)

**c.** In accordance with appropriate silvicultural prescriptions, skid trails shall be kept to the minimum feasible width and number. Tractors used for skidding shall be limited to the size appropriate for the job. (8-13-85)

**d.** Uphill cable yarding is preferred. Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils. (8-13-85)

**04. Location of Landings, Skid Trails, and Fire Trails.** Locate landings, skid trails, and fire trails on stable areas to prevent the risk of material entering streams. (10-14-75)

**a.** All new or reconstructed landings, skid trails, and fire trails shall be located on stable areas outside the appropriate stream protection zones. Locate fire and skid trails where sidecasting is held to a minimum. (3-13-90)

**b.** Minimize the size of a landing to that necessary for safe economical operation. (8-13-85)

**c.** To prevent landslides, fill material used in landing construction shall be free of loose stumps and excessive accumulations of slash. On slopes where sidecasting is necessary, landings shall be stabilized by use of seeding, compaction, riprapping, benching, mulching or other suitable means. (8-13-85)

**05. Drainage Systems.** For each landing, skid trail or fire trail a drainage system shall be provided and maintained that will control the dispersal of surface water to minimize erosion. (4-21-92)

**a.** Stabilize skid trails and fire trails whenever they are subject to erosion, by water barring, cross draining, outsliping, scarifying, seeding or other suitable means. This work shall be kept current to prevent erosion prior to fall and spring runoff. (8-13-85)

**b.** Reshape landings as needed to facilitate drainage prior to fall and spring runoff. Stabilize all landings by establishing ground cover or by some other means within one (1) year after harvesting is completed. (8-13-85)

**06. Treatment of Waste Materials.** All debris, overburden, and other waste material associated with harvesting shall be left or placed in such a manner as to prevent their entry by erosion, high water, or other means into streams. (10-14-75)

**a.** Wherever possible trees shall be felled, bucked, and limbed in such a manner that the tree or any part thereof will fall away from any Class I streams. Continuously remove slash that enters Class I streams as a result of harvesting operations. Continuously remove other debris that enters Class I streams as a result of harvesting operations whenever there is a potential for stream blockage or if the stream has the ability for transporting such debris. Place removed material five (5) feet slope distance above the ordinary high water mark. (3-13-90)

**b.** Remove slash and other debris that enters Class II streams whenever there is a potential for stream blockage or if the stream has the ability for transporting the debris immediately following skidding and place removed material above the ordinary high water mark or otherwise treat as prescribed by the department. No formal variance is required. (11-7-86)

**c.** Deposit waste material from construction or maintenance of landings and skid and fire trails in geologically stable locations outside of the appropriate Stream Protection Zone. (8-13-85)

**07. Stream Protection.** During and after forest practice operations, stream beds and streamside vegetation shall be protected to leave them in the most natural condition as possible to maintain water quality and aquatic habitat. (8-13-85)

**a.** Lakes require an approved site specific riparian management prescription prior to conducting forest practices within the stream protection zone. (7-1-96)

**b.** Ground based skidding in or through streams shall not be permitted. When streams must be crossed, adequate temporary structures to carry stream flow shall be installed. Cross the stream at right angles to its channel if at all possible. (Construction of hydraulic structures in stream channels is regulated by the Stream Channel Protection Act - Title 42, Chapter 38, Idaho Code). Remove all temporary crossings immediately after use and, where applicable, water bar the ends of the skid trails. (7-1-96)

**c.** Operation of ground based equipment shall not be allowed within the Stream Protection Zone except at approaches to stream crossings. (7-1-96)

**d.** When cable yarding is necessary, across or inside the Stream Protection Zones it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. (8-13-85)

**e.** Provide for large organic debris (LOD), shading, soil stabilization, wildlife cover and water filtering effects of vegetation along streams. (7-1-96)

**i.** Leave hardwood trees, shrubs, grasses, and rocks wherever they afford shade over a stream or maintain the integrity of the soil near a stream. (10-14-75)

**ii.** Leave seventy-five percent (75%) of the current shade over the Class I streams. Limit re-entry until shade recovers. (7-1-96)( )

**iii.** During harvesting, carefully remove timber from the Stream Protection Zone in such a way that large organic debris, shading and filtering effects are ~~not destroyed~~ maintained and protected. When portions of felled trees fall into or over a Class I stream, leave a portion consistent with the LOD definition of Subsection 010.35. (7-1-96)( )

**iv.** For planned salvage operations of trees that have fallen naturally into or over a Class I stream, leave a portion consistent with the LOD definition of Subsection 010.35. Leaving the section with the root ball attached is preferred. ( )

**v.** During harvesting operations, portions of trees not meeting the LOD definition shall be removed, consistent with the slash removal requirements of Subsection 030.06. ( )

¶vi. Standing trees, including conifers, hardwoods and snags will be left within fifty (50) feet of the ordinary high water mark on each side of all Class I streams, and within thirty (30) feet on each side of those Class II streams that require thirty (30) feet stream protection zones, in the following minimum numbers per one thousand (1000) feet of stream:

Minimum Standing Trees Per One Thousand (1000) Feet Required (each side)

Tree Diameter (DBH)	-- STREAM WIDTH --			
	Class I			Class II*
	Over 20'	10'- 20'	Under 10'	
3 - 7.9"	200	200	200	140
8 - 11.9"	42	42	42	--
12 - 19.9"	21	21	--	--
20"+	4	--	--	--

\*For those Class II streams that require a minimum five (5) foot stream protection zone, no standing trees are required. (7-1-96)( )

vii. Snags will be counted as standing trees in each diameter class if snag height exceeds one and one-half (1 ½) times the distance between the snag and the stream's ordinary high water mark. Not more than fifty percent (50%) of any class may consist of snags. (3-13-90)

viii. As an alternative to the standing tree and shade requirements, the operator may ~~notify the department that~~ develop a site specific riparian management prescription ~~is requested~~ and submit it to the department for approval. The ~~department and operator may jointly develop a plan upon consideration of~~ prescription should consider stream characteristics and the need for large organic debris, stream shading and wildlife cover which will meet the objective of these rules. (3-13-90)( )

¶ix. Where the opposite side of the stream does not currently meet the minimum standing tree requirements of the table, the department and the operator should consider a site specific riparian prescription that meets the large organic debris needs of the stream. (3-13-90)

¶ix. Stream width shall be measured as average between ordinary high water marks. (3-13-90)

**f.** Direct ignition of prescribed burns will be limited to hand piles within stream protection zones (SPZ), all other ignitions shall occur outside of SPZs, so a backing (cooler) fire will more likely occur within the SPZ. ( )

i. Hand piles shall be at least ten (10) feet from the ordinary high water mark of streams. ( )

ii. No mechanical piling of slash or natural forest fuels is allowed in a SPZ (an exception is filter windrows for erosion control which shall not be ignited. ( )

**08. Maintenance of Productivity and Related Values.** Harvesting practices will first be designed to assure the continuous growing and harvesting of forest tree species by suitable economic means and also to protect soil, air, water, and wildlife resources. (10-14-75)

a. Where major scenic attractions, highways, recreation areas or other high-use areas are located within or traverse forest land, give special consideration to scenic values by prompt cleanup and regeneration. (10-14-75)

**b.** Give special consideration to preserving any critical wildlife or aquatic habitat. Wherever practical, preserve fruit, nut, and berry producing trees and shrubs. (10-14-75)

**c.** Avoid conducting operations along bogs, swamps, wet meadows, springs, seeps, wet draws or other sources where the presence of water is indicated, protect soil and vegetation from disturbance which would cause adverse affects on water quality, quantity and wildlife and aquatic habitat. (7-1-96)

**d.** ~~Whenever practical, as determined by the department, plan~~ Clear cutting operations within a single ownership shall be planned so that adequate wildlife escape cover is available within one-quarter (¼) mile. ~~(10-14-75)( )~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**040. ROAD CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE.**

**01. Purpose.** Provide standards and guidelines for road construction, reconstruction, and maintenance that will maintain forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

**02. Road Specifications and Plans.** Road specifications and plans shall be consistent with good safety practices. Plan each road to the minimum use standards adapted to the terrain and soil materials to minimize disturbances and damage to forest productivity, water quality, fish, and wildlife habitat. (4-5-00)

**a.** Plan transportation networks to avoid road construction within stream protection zones, except at approaches to stream crossings. Leave or reestablish areas of vegetation between roads and streams. (4-5-00)

**b.** Roads shall be no wider than necessary to safely accommodate the anticipated use. Minimize cut and fill volumes by aligning the road to fit the natural terrain features as closely as possible. Adequately compact fill material. Dispose of excess material on geologically stable sites. (4-5-00)

**c.** Plan roads to drain naturally by out-sloping or in-sloping with cross-drainage and by grade changes where possible. Plan dips, water bars, cross-drainage, or subsurface drainage on roads when necessary. (4-5-00)

**d.** Relief culverts and roadside ditches shall be planned whenever reliance upon natural drainage would not protect the running surface, cut slopes or fill slopes. Plan culvert installations to prevent erosion of the fill by properly sizing, bedding and compacting. Plan drainage structures to achieve minimum direct discharge of sediment into streams. (4-5-00)

**e.** The following rule applies to installations of new culverts and re-installations during road reconstructions or reinstallations caused by flood or other catastrophic events. Culverts used for temporary crossings are exempt from the fifty (50) year design requirement, but they must be removed immediately after they are no longer needed and before the spring run-off period. (4-5-00)

**i.** Culvert installations on fish bearing streams must provide for fish passage. (4-5-00)

**ii.** Design culverts for stream crossings to carry the fifty (50) year peak flow using engineering methods acceptable to the department or determine culvert size by using the culvert sizing tables below. The minimum size culvert required for stream crossings shall not be less than eighteen (18) inches in diameter, with the exception of that area of the Snake River drainage upstream from the mouth of the Malad River, including the Bear River basin, where the minimum size shall be fifteen (15) inches. (7-1-96)

**CULVERT SIZING TABLE - I**  
**USE FOR NORTH IDAHO AND THE SALMON RIVER DRAINAGE**



This culvert sizing table will be used for the area of the state north of the Salmon River and within the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
less than 32	18	6
33 - 74	24	12
75 - 141	30	20
142 - 240	36	32
241 - 366	42	46
367 - 546	48	65
547 - 787	54	89
788 - 1027	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
1028 - 1354	66	142
1355 - 1736	72	176
1737 - 2731	84	260
2732 - 4111	96	370
4112 - 5830	108	500
5831 - 8256	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures. (4-21-92)

**CULVERT SIZING TABLE - II**  
**USE FOR SOUTH IDAHO**

This culvert sizing table will be used for the area of the state south of the Salmon River and outside the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
less than 72	18#	6
73 - 150	24	12
151 - 270	30	20
271 - 460	36	32

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
461 - 720	42	46
721 - 1025	48	65
1026 - 1450	54	89
1451 - 1870	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1871 - 2415	66	142
2416 - 3355	72	176
3356 - 5335	84	260
5336 - 7410	96	370
7411 - 9565	108	500
9566 - 11780	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures.

# See exception for southeast Idaho in Subsection 040.02.ii. of this rule. (4-5-00)

iii. Relief culverts, and those used for seeps, springs, wet areas, and draws shall not be less than twelve (12) inches in diameter for permanent installations. (7-1-96)

f. On existing roads that are not reconstructed or damaged by catastrophic events, landowners or operators are encouraged, but not required, to replace or provide mitigation for culverts that do not provide for fish passage in accordance with Subsection 040.02.e.i. or cannot carry the fifty (50) year peak flow of Subsection 040.02.e.ii. ( )

fg. Stream crossings, including fords, shall be minimum in number and planned and installed in compliance with the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and with culvert sizing requirements of Subsection 040.02.e. Fords are an acceptable stream crossing structure on small, shallow streams, with flat, less than four percent (4%) gradients. Fords should cross the stream at right angles. Approaches shall be adequately cross-drained and rocked for at least seventy-five (75) feet. During times of salmonid spawning and egg incubation or to protect active domestic water diversions, use shall be limited to low water, dry, or frozen conditions and hauling or equipment crossing trips limited to minimize sediment delivery to streams. (~~4-5-00~~)( )

gh. Avoid reconstruction ~~or reuse~~ of existing roads located in stream protection zones, except for approaches to stream crossings, unless it will result in the least long-term impact on site productivity, water quality, and fish and wildlife habitat. Reconstruction ~~or reuse~~ of existing roads in stream protection zones will require a variance. Reusing existing roads in stream protection zones for skidding or landing logs shall require a variance. Reusing existing roads in stream protection zones for hauling fully suspended logs only, where no reconstruction will occur, does not require a variance. (~~4-5-00~~)( )

**03. Road Construction.** Construct or reconstruct roads in a manner to prevent debris, overburden, and other material from entering streams. (4-5-00)

- a.** Roads shall be constructed in compliance with the planning guidelines of Subsection 040.02. (7-1-96)
- b.** Clear all debris generated during construction or maintenance which potentially interferes with drainage or water quality. Deposit excess material and slash on geologically stable sites outside the stream protection zones. (4-5-00)
- c.** Where exposed material (road surface, cut slopes or fill slopes, borrow pits, waste piles, etc.) is potentially erodible, and where sediments would enter streams, stabilize prior to fall or spring runoff by seeding, compacting, rocking, riprapping, benching, mulching or other suitable means. (4-5-00)
- d.** In the construction of road fills, compact the material to reduce the entry of water, minimize erosion, and settling of fill material. Minimize the amount of snow, ice, or frozen soil buried in embankments. No significant amount of woody material shall be incorporated into fills. Available slash and debris may be utilized as a filter windrow along the toe of the fill, but must meet the requirements of the Idaho Forestry Act and Fire Hazard Reduction Laws, Title 38, Chapters 1 and 4, Idaho Code. (4-5-00)
- e.** During and following operations on out-sloped roads, retain out-slope drainage and remove berms on the outside edge except those intentionally constructed for protection of road grade fills. (8-13-85)
- f.** Provide for drainage of quarries to prevent sediment from entering streams. (8-13-85)
- g.** Construct cross drains and relief culverts to minimize erosion of embankments. Installation of erosion control devices should be concurrent with road construction. Use riprap, vegetative matter, downspouts and similar devices to minimize erosion of the fill. Install drainage structures or cross drain incompleted roads which are subject to erosion prior to fall or spring runoff. Install relief culverts with a minimum grade of one percent (1%). (4-5-00)
- h.** Earthwork or material hauling shall be postponed during wet periods if, as a result, erodible material would enter streams. (4-5-00)
- i.** Cut slopes shall be reconstructed to minimize sloughing of material into road surfaces or ditchlines. Remove or stabilize material subject to sloughing concurrent with the construction operation. (4-5-00)
- j.** Roads constructed on slopes greater than sixty percent (60%) in unstable or erodible soils shall be full benched without fill slope disposal. At stream and draw crossings keep fills to a minimum. A variance is required if a full bench is not used. (4-5-00)
- 04. Road Maintenance.** Conduct regular preventive maintenance operations to minimize disturbance and damage to forest productivity, water quality, and fish and wildlife habitat. (4-5-00)
- a.** Place all debris or slide material associated with road maintenance in a manner to prevent their entry into streams. (4-5-00)
- b.** Repair slumps, slides, and other erosion sources causing stream sedimentation to minimize sediment delivery. (4-5-00)
- c.** Active roads. An active road is a forest road being used for hauling forest products, rock and other road building materials. The following maintenance shall be conducted on such roads. (8-13-85)
- i.** Culverts and ditches shall be kept functional. (8-13-85)
- ii.** During and upon completion of seasonal operations, the road surface shall be crowned, out-sloped, in-sloped or cross-ditched, and berms removed from the outside edge except those intentionally constructed for protection of fills. (4-5-00)

iii. The road surface shall be maintained as necessary to minimize erosion of the subgrade and to provide proper drainage. (8-13-85)

iv. Hauling shall be postponed during wet periods if necessary to minimize sediment delivery to streams. (4-5-00)

v. If road surface stabilizing materials are used, apply them in such a manner as to prevent their entry into streams. (4-5-00)

**d.** Incidental Haul Road. An incidental haul road is a multi-use road (residential traffic; its primary purpose is other than forest practices) that has log haul during active harvest activities. Active road maintenance requirements apply. Once active road maintenance is completed, no other maintenance is required under the Forest Practices Act (FPA). ( )

**de.** Inactive roads. An inactive road is a forest road (primary purpose is for forest practices) no longer used for commercial hauling but maintained for access (e.g., for fire control, forest management activities, recreational use, and occasional or incidental use for minor forest products harvesting). The following maintenance shall be conducted on inactive roads. (~~8-13-85~~)( )

i. Following termination of active use, ditches and culverts shall be cleared and the road surface shall be crowned, out-sloped or in-sloped, water barred or otherwise left in a condition to minimize erosion. Drainage structures shall be maintained thereafter as needed. (7-1-96)

ii. The roads may be permanently or seasonally blocked to vehicular traffic. (8-13-85)

**ef.** Long-term Inactive Roads. A long-term inactive road is not intended to be used again in the near future but will likely be used again at some point in the future. No subsequent maintenance of a long-term inactive road is required after the following procedures are completed: (4-5-00)

i. The road is left in a condition suitable to control erosion by out-sloping, water barring, seeding, or other suitable methods. (8-13-85)

ii. The road is blocked to vehicular traffic. (8-13-85)

iii. The department may require the removal of bridges, culverts, ditches and unstable fills. Any bridges or culverts left in place shall be maintained by the landowner. (4-5-00)

**fg.** Permanently Abandoned Roads. Permanently abandoned roads are not intended to be used again. All drainage structures must be removed and roadway sections treated so that erosion and landsliding are minimized. (4-5-00)

i. Drainage structures shall be removed and stream gradients restored to their natural slope. (4-5-00)

ii. The road prism shall be treated to break up compacted areas. (4-5-00)

iii. Fill slopes of roads within stream protection zones shall be pulled back to a stable configuration unless long-term stability has already been achieved. (4-5-00)

iv. Unstable sidehill fills shall be pulled back to a stable configuration. (4-5-00)

v. Ditch line erosion shall be controlled by cross-ditching, outsloping, or regrading to eliminate ditches. (4-5-00)

vi. All bare earth areas created by regrading, ripping, and drainage removal shall be stabilized by seeding, mulching, armoring, or other suitable means. (4-5-00)

**05. Winter Operations.** Due to risk of erosion and damage from roads and constructed skid trails

inherent in winter logging, at minimum the following shall apply: (4-21-92)

**a.** Roads to be used for winter operations must have adequate surface and cross drainage installed prior to winter operations. Drain winter roads by installing rolling dips, driveable cross ditches, open top culverts, outsloping, or by other suitable means. (4-21-92)

**b.** During winter operations, roads will be maintained as needed to keep the road surface drained during thaws or break up. This may include active maintenance of existing drainage structures, opening of drainage holes in snow berms and installation of additional cross drainage on road surfaces by ripping, placement of native material or other suitable means. (4-21-92)

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.03.02 - RULES GOVERNING EXPLORATION AND SURFACE MINING IN IDAHO

#### DOCKET NO. 20-0302-0501 (FEE RULE)

#### NOTICE OF RULEMAKING - TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 13, 2005.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 58-104, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for adopting a temporary rule:

The Idaho Department of Lands (IDL) initiated this rulemaking to make revisions to the Rules Governing Exploration and Surface Mining in Idaho in response to Senate Bill 1169. SB 1169 directed IDL and the Department of Environmental Quality (DEQ) to promulgate temporary rules to implement the legislation by August 1, 2005. This rulemaking has been conducted in coordination with the DEQ's rulemaking.

Mining companies, the Idaho Mining Association, the DEQ, Boise City (also representing the Association of Idaho Cities), United Water, the Idaho Conservation League, and the public at large participated in the rule negotiations.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a) and (b), Idaho Code, the Governor has found that adoption of the temporary rule is appropriate for the following reasons: These rules are necessary to protect the public health, safety, or welfare.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee being imposed by these rules is justified and necessary to avoid immediate danger to public health, safety, and welfare. The fee is described herein: SB 1169 requires IDL to review and approve permanent closure plans for cyanidation facilities and to establish permanent closure bonds for these facilities. Amendments to Section 47-1506(g), Idaho Code, authorize the State Board of Land Commissioners (Board) to require a reasonable fee for reviewing and approving a permanent closure plan, and the fee may include the cost to employ a qualified independent party to verify the accuracy of the cost estimate to complete permanent closure. Amendments to Section 47-1518, Idaho Code, require the Board to promulgate temporary rules by August 1, 2005, to implement the provisions of this act, including the imposition of an appropriate fee that would allow IDL to acquire the professional assistance needed to implement the provisions of SB 1169. IDL will seek assistance from the DEQ and/or qualified consultants to provide the specialized expertise necessary for permanent closure plan review. These consultations will be necessary to ensure that appropriate measures are in place to protect public health, safety, or welfare. IDL may receive a permanent closure plan for review and approval before the 2006 legislative session, which necessitates promulgation of application fees in the temporary rules.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Eric Wilson at (208) 334-3488 or [ewilson@idl.state.id.us](mailto:ewilson@idl.state.id.us).

DATED this 1st day of August, 2005.

Winston A Wiggins  
Director  
Idaho Department of Lands  
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0302-0501

**20.03.02 - RULES GOVERNING EXPLORATION, AND SURFACE MINING, ~~IN IDAHO~~  
AND CLOSURE OF CYANIDATION FACILITIES**

**000. LEGAL AUTHORITY.**

The following rules are promulgated by the Idaho State Board of Land Commissioners (“board”) pursuant to the Idaho Surface Mining Act, Title 47, Chapter 15 (“~~act~~ chapter”), Idaho Code; and in the event of any conflict between these rules and the act, the latter shall be controlling. The board has delegated to the director of the Department of Lands (“department”) the duties and powers under the ~~act~~ chapter and these rules; provided that the board shall retain responsibility for administrative review. ~~(11-1-89)~~(7-13-05)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 20.03.02, “Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities”. (7-13-05)T

~~02.~~ **Purpose.** It is the purpose of these rules to provide for the protection of the public health, safety, and welfare, through measures to reclaim the surface of all the lands within the state disturbed by exploration ~~operations~~ and surface mining operations and thereby conserve natural resources, aid in the protection of wildlife, domestic animals, aquatic resources, and reduce soil erosion. It is also the purpose of these rules to implement the State of Idaho’s antidegradation policy as set out in Executive Order No. 88-23 as it pertains to exploration ~~operations~~ and surface mining operations and cyanidation facilities operating on lands within the state. These rules are not intended to require reclamation activities in addition to those required by the act. ~~(11-1-89)~~(7-13-05)T

**023. Scope.** In general, these rules establish: (11-1-89)

**a.** Requirements for exploration operations; (11-1-89)

**b.** Procedures for approval of a surface mining reclamation plan, including an operating plan, when required by Section 47-1506(b), Idaho Code; (7-1-98)

**c.** Procedures for approval of a permanent closure plan for cyanidation facilities; (7-13-05)T

**d.** Requirements for performance bonds for postmining reclamation to be posted prior to beginning surface mining operations; (11-1-89)

**e.** Requirements for performance bonds for permanent closure of cyanidation facilities to be posted prior to beginning the construction and operation of a cyanide ore-processing facility; (7-13-05)T

**f.** Reclamation requirements; and (11-1-89)

**g.** Permanent closure requirements for cyanidation facilities; and (7-13-05)T

**h.** Procedures for ensuring compliance with the Idaho Surface Mining Act and these rules. (11-1-89)

**034. Other Laws.** Operators engaged in ~~E~~exploration, ~~operations and~~ surface mining operations, and operation of a cyanidation facility shall comply with all applicable rules and regulations and laws of the state of Idaho including, but not limited to the following: ~~(11-1-89)~~(7-13-05)T

**a.** Idaho water quality standards and waste water treatment requirements established in ~~(Title 39, Chapter 1, Idaho Code); IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements”;~~ and *the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code) and rules promulgated pursuant*

~~hereto as~~ IDAPA 58.01.11, “Ground Water Quality Rule,” administered by the Idaho Department of Environmental Quality (“DEQ”). ~~(11-1-89)~~(7-13-05)T

**b.** Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code and rules promulgated thereunder including, IDAPA 58.01.05, “Rules and Standards for Hazardous Waste” and IDAPA 58.01.06, “Solid Waste Management Rules,” administered by the DEQ. (7-13-05)T

**bc.** Section 39-118A, Idaho Code, and applicable rules for ore processing by cyanidation as promulgated and administered by the DEQ, IDAPA 58.01.13, “Rules for Ore Processing by Cyanidation.”, ~~(11-1-89)~~(7-13-05)T

**ed.** Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (11-1-89)

**de.** Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (11-1-89)

**045. Applicability.** (7-1-93)

**a.** These rules are to be read and applied in conjunction with Title 47, Chapter 15, Idaho Code. These rules apply to exploration, surface mining operations, ~~or exploration operations~~ and cyanidation facility operations conducted on all lands within the state, regardless of ownership, commenced after the effective date of these rules. Provided further that these rules shall in no way affect, alter, or modify the terms or conditions of any approved reclamation plan or previously approved amendment thereto, or performance bond for reclamation obtained prior to January 1, 1997. If a material change in circumstances arises and is regulated in accordance with Subsection 090.01, then the operator shall submit a supplemental reclamation plan. All public or governmental agencies who extract minerals to be used by or for the benefit of such agency must comply with these rules. ~~(7-1-98)~~(7-13-05)T

**b.** Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, which disturb more than two (2) acres, shall comply with the provisions of Section 069. (7-1-98)

**c.** Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, which disturb less than two (2) acres, are exempt from provisions of Section 069, but must comply with Subsections 060.06.a., 060.06.b., and 060.06.c. (7-1-98)

**d.** Extraction of minerals from within the right-of-way of a public highway by a public or governmental agency for maintenance, repair or construction of a public highway shall not be deemed surface mining operations under these rules, provided that the affected land is an integral part of the public highway. (7-1-98)

**e.** These rules do not apply to any surface mining operations performed prior to May 31, 1972, and further, an operator shall not be required to perform such reclamation activities as to any pit or overburden pile as it existed prior to May 31, 1972. However, if an operator elects to re-affect an area mined prior to May 31, 1972, the newly disturbed lands shall be subject to the act and these rules. (11-1-89)

**f.** These rules do not apply to surface mining operations for which the Idaho Dredge and Placer Mining Protection Act requires a permit, or which are otherwise regulated by that act, nor to surface disturbances caused by an underground mining operation. (11-1-89)

**g.** Sand and gravel mining operations in state owned beds of navigable lakes, rivers, or streams shall constitute an approved surface mining plan for the purpose of these rules, if they: (11-1-89)

i. Are covered by a valid lease granted by the board in accordance with the board’s “Rules Governing Riverbed Mineral Leasing,” (IDAPA 20.03.05); (11-1-89)

ii. Have a valid stream channel alteration permit issued by the Department of Water Resources; (11-1-89)



- iii. Have a plan of operation for the mineral lease approved by the department ~~of Lands~~; and  
(~~11-1-89~~)(7-13-05)T
- iv. Are covered by a valid mineral lease bond. (11-1-89)

**h.** A cyanidation facility with a permit approved by the DEQ prior to July 1, 2005, shall be subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005; however, if there is a material modification or material expansion to a cyanidation facility after July 1, 2005, the provisions of these rules shall apply to the modification or expansion. (7-13-05)T

**002. (RESERVED).**

**003. ADMINISTRATIVE APPEALS.**

**01. Notice of Non-Compliance.** Whenever the director becomes aware that an operator has not complied with the provisions of the ~~act~~ chapter or these rules, the director shall notify the operator in writing of this non-compliance and through conference with the operator seek to remedy the non-compliance. Any period set by the parties for correction of a violation shall be binding. (~~11-1-89~~)(7-13-05)T

**02. Administrative Complaint.** In the event of the failure of any conference, conciliation, and persuasion to remedy any alleged violation, the board may cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which shall specify the provisions of this act which the operator allegedly is violating, and a statement of the manner in and the extent to which said operator is alleged to be violating the provisions of this act. Such complaint may be served by certified mail, and return receipt, signed by the operator, an officer of a corporate operator, or the designated agent of the operator, shall constitute service. (11-1-89)

**03. Answer and Hearing.** The operator shall be required to answer the formal complaint and request a hearing before a hearing officer appointed by the director within thirty (30) days of receipt of the complaint if matters asserted in the complaint are disputed. The hearing shall be held at a time not less than thirty (30) days after the date the operator requests such a hearing. The board shall issue subpoenas at the request of the director and at the request of the charged operator. The hearing will be conducted in accordance with Sections 67-5209 through 67-5213, Idaho Code, and these rules. (11-1-89)

**04. Order.** The hearing officer shall enter an order in accordance with Sections 67-5212, Idaho Code, which, if adverse to the operator, shall designate a time period within which prescribed corrective action, if any, should be taken. The designated time period shall be sufficient to allow a reasonably diligent operator to correct any violation. Procedure for appeal of an order is outlined in Section 160. (11-1-89)

**05. Compliance With Order.** Upon the operator's compliance with the order, the director will consider the matter resolved and shall take no further action with respect to such noncompliance. (11-1-89)

**06. Default by Operator.** If the operator fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the operator, and the director may proceed to cancel the reclamation plan or the permanent closure plan and forfeit the bond in the amount necessary to reclaim affected lands or to complete permanent closure activities. (~~11-1-89~~)(7-13-05)T

**004. -- 009. (RESERVED).**

**010. DEFINITIONS.**

~~01. Act. The Idaho Surface Mining Act, Title 47, Chapter 15, Idaho Code.~~ (~~11-1-89~~)

**021. Affected Land.** The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at the surface mining operation site. (11-1-89)

**032. Approximate Previous Contour.** A contour that is reasonably comparable to that contour existing

prior to disturbance, or that blends with the adjacent topography. (11-1-89)

**043. Best Management Practices (“BMPs”).** Methods, measures, or practices to prevent or reduce nonpoint source (NPS) water pollution, including, but not limited to, structural and nonstructural controls, and operation and maintenance procedures. Usually, BMPs are applied as a system of practices rather than a single practice. BMPs are selected on the basis of site-specific conditions that reflect natural background conditions; political, social, economic, and technical feasibility; and stated water quality goals. (11-1-89)

**054. Board.** The State Board of Land Commissioners or any department, commission, or agency that may lawfully succeed to the powers and duties of such board. (11-1-89)

**05. Chapter.** The Idaho Surface Mining Act, Title 47, Chapter 15, Idaho Code. (7-13-05)T

**06. Cyanidation.** The method of extracting target precious metals from ores by treatment with cyanide solution, which is the primary leaching agent for extraction. (7-13-05)T

**07. Cyanidation Facility.** That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings, and process water. (7-13-05)T

**078. Department.** The Idaho Department of Lands. Its business address is 954 West Jefferson Street, Boise, Idaho 83720. (7-1-98)

**069. DEQ.** The Department of Environmental Quality. (11-1-89)

**0810. Director.** The head of the Department of Lands or such officer as may lawfully succeed to the powers and duties of said director. It shall also mean such representative as may be designated by the director. (11-1-89)

**11. Discharge.** With regard to cyanidation facilities, when used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (7-13-05)T

**0912. Exploration Drill Holes.** Holes drilled from the surface to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

**103. Exploration Operations.** Activities performed on the surface of lands to locate mineral bodies and to determine the mineability and merchantability thereof. These activities include, but are not limited to, construction of roads, trenches, and exploration drill holes. (11-1-89)

**114. Exploration Roads.** Roads constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

**125. Exploration Trenches.** Trenches constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

**136. Final Order of the Board.** A written notice of rejection, the order of a hearing officer at the conclusion of a hearing, or any other order of the board where additional administrative remedies are not available. (11-1-89)

**17. Groundwater.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (7-13-05)T

**148. Hearing Officer.** That person selected by the board to hear proceedings under Section 47-1513, Idaho Code. It also means that person selected by the director to hear proceedings initiated under Section 110 or Section 160 of these rules. (11-1-89)

**19. Land Application.** With regard to cyanidation facilities, a process or activity involving application

of process water, process-contaminated water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (7-13-05)T

~~1520.~~ **Material Change.** ~~A change which deviates from the approved reclamation plan and causes one (1) of the following to occur:~~ (7-1-98)(7-13-05)T

**a.** For surface mining, a change which deviates from the approved reclamation plan and causes one (1) of the following to occur: (7-13-05)T

~~a~~i. Results in a substantial adverse affect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings facilities or pit walls; (7-1-98)

~~b~~ii. Substantially modifies surface water management, not to include routine implementation and maintenance of best management practices; (7-1-98)

~~c~~iii. Exceeds the permitted acreage; or (7-1-98)

~~d~~iv. Increases overall estimated reclamation costs by more than fifteen percent (15%). (7-1-98)

**b.** For cyanidation facilities, a change which causes one (1) of the following to occur: (7-13-05)T

i. A circumstance that results in a substantial adverse effect to the geotechnical stability of the cyanidation facilities; (7-13-05)T

ii. A circumstance that necessitates a substantial change in the water management plan. (7-13-05)T

iii. A significant increase in overall estimated permanent closure costs. (7-13-05)T

**21. Material Modification or Material Expansion.** With regard to cyanidation facilities: (7-13-05)T

**a.** The addition of a new beneficiation process which includes, but is not limited to, heap leaching and process components for milling, which was not identified in the original application that significantly increases the potential to degrade the waters of the state; or (7-13-05)T

**b.** A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or (7-13-05)T

**c.** A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (7-13-05)T

**d.** Reclamation or closure related activities at a facility with an existing cyanidation permit that did not actively add cyanide after January 1, 2005, shall not be considered to be a material modification or material expansion of the cyanidation facility. (7-13-05)T

**22. Material Stabilization.** Managing or treating spent ore, tailings, other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. (7-13-05)T

~~1623.~~ **Mine Panel.** That area designated by the operator as a panel of a surface mine on the map submitted pursuant to Section 47-1506, Idaho Code. (11-1-89)

~~1724.~~ **Mined Area.** Surface of land from which overburden or minerals have been removed other than by drilling of exploration drill holes. (11-1-89)

~~1825.~~ **Mineral.** Coal, clay, stone, sand, gravel, metalliferous and non-metalliferous types of ores, and any other similar, solid material or substance of commercial value to be excavated from natural deposits on or in the earth.

(11-1-89)

~~1926.~~ **Mineral Stockpile.** Mineral extracted during surface mining operations and retained at the surface mine for future rather than immediate use. (11-1-89)

~~207.~~ **Motorized Earth-Moving Equipment.** Backhoes, bulldozers, front-loaders, trenchers, core drills, and other similar equipment. (11-1-89)

~~28.~~ **Neutralization.** Treatment of process waters such that discharge or final disposal of those waters does not, or shall not violate all applicable standards and criteria. (7-13-05)T

~~249.~~ **Operator.** Any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including but not limited to every public or governmental agency engaged in surface mining or exploration operations, or in operating a cyanidation facility, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every governmental agency owning or controlling the use of any surface mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any such governmental agency with respect to those surface mining or exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of the act. (~~11-1-89~~)(7-13-05)T

~~2230.~~ **Overburden.** Material extracted by an operator which is not a part of the material ultimately removed from a surface mine and marketed by an operator, exclusive of mineral stockpiles. (11-1-89)

~~231.~~ **Overburden Disposal Area.** Land surface upon which overburden is piled or planned to be piled. (11-1-89)

~~2432.~~ **Peak.** A projecting point of overburden. (11-1-89)

~~33.~~ **Permanent Closure.** Those activities which result in neutralization, material stabilization, and decontamination of cyanidation facilities and/or their final reclamation. (7-13-05)T

~~34.~~ **Permanent Closure Plan.** A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of Title 47, Chapter 15, Idaho Code, in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site specific conditions. (7-13-05)T

~~35.~~ **Permit.** When used without qualification, any written authorization by the Department of Environmental Quality, issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.03, "Rules for Ore Processing by Cyanidation," governing the location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (7-13-05)T

~~36.~~ **Pilot Facility.** (7-13-05)T

~~a.~~ A testing cyanidation facility that is constructed primarily to obtain data on the effectiveness of the beneficiation process to determine: (7-13-05)T

~~i.~~ The feasibility of metals recovery from an ore; or (7-13-05)T

~~ii.~~ The optimum operating conditions for a predetermined process to extract values from an ore. (7-13-05)T

~~b.~~ A pilot or testing cyanidation facility operated for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (7-13-05)T

**2537. Pit.** An excavation created by the extraction of minerals or overburden during surface mining operations. (11-1-89)

**38. Pollutant.** Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials which, when discharged cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state. (7-13-05)T

**39. Post Closure.** The period of time after completion of permanent closure and the operator is monitoring the effectiveness of the permanent closure activities. Post closure shall last a minimum of twelve (12) months, but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and the requirements of Title 47, Chapter 15, Idaho Code. (7-13-05)T

**40. Process Waters.** Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (7-13-05)T

**2641. Reclamation.** The process of restoring an area affected by a surface mining operation to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (11-1-89)

**2742. Revegetation.** The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by surface mining operations. (11-1-89)

**2843. Ridge.** A lengthened elevation of overburden. (11-1-89)

**2944. Road.** A way constructed on a surface mine for the passage of vehicles, including the bed, slopes and shoulders thereof. (11-1-89)

**45. Small Cyanidation Processing Facility.** A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or operator may concurrently hold more than one (1) small cyanidation processing facility permit, if located within ten (10) miles of each other. (7-13-05)T

**3046. Surface Mine.** An area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits thereof and mining directly from the natural deposits thereby exposed. (11-1-89)

**3147. Surface Mining Operations.** The activities performed on a surface mine in the extraction of minerals from the ground, including the excavation of pits, removal of minerals, disposal of overburden, and the construction of haulage roads, exclusive of exploration operations, except that any exploration operations which, exclusive of exploration roads, 1) result during a period of twelve (12) consecutive months in more than five (5) contiguous acres of newly affected land, or 2) which, exclusive of exploration roads, results during a period of twelve (12) consecutive months in newly affected lands consisting of more than ten (10) noncontiguous acres, if such affected land constitutes more than fifteen percent (15%) of the total area of any circular tract which includes such affected land, shall be deemed to be a surface mining operation for the purposes of the act. (11-1-89)

**3248. Surface Waters.** The surface waters of the state of Idaho. (11-1-89)

**3349. Tailings Pond.** An area on a surface mine enclosed by a man-made or natural dam onto which has been discharged the waste material resulting from the primary concentration of minerals in ore excavated from a surface mine. (11-1-89)

**50. Treatment.** With regard to cyanidation facilities, any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the

purpose of disposal. (7-13-05)T

**51. Water Balance.** An inventory and accounting process capable of being reconciled that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (7-13-05)T

**52. Water Management Plan.** A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state, unless permitted or otherwise approved by the DEQ. (7-13-05)T

**53. Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. For the purposes of these rules, and in accordance with Section 39-3602(28), Idaho Code, these waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (7-13-05)T

**54. Weak Acid Dissociable (WAD) Cyanide.** The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036, the American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the DEQ. (7-13-05)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**060. EXPLORATION OPERATIONS AND REQUIRED RECLAMATION.**

**01. Diligence.** All reclamation activities required to be conducted on exploration sites shall be performed in a good, workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, or trench, within one (1) year after abandonment thereof. (11-1-89)

**02. When Exploration Is Surface Mining.** Exploration operations may under some circumstances constitute "surface mining operations"; see Subsection 010.3047. ~~(11-1-89)~~(7-13-05)T

**03. Notification.** Any operator desiring to conduct exploration within the state of Idaho using motorized earth-moving equipment to locate minerals for immediate or ultimate sale, in either the natural or processed state, shall notify the department by certified mail within seven (7) days after beginning exploration operations. (11-1-89)

**04. Contents of Notification.** The letter shall include the following. (11-1-89)

**a.** The name and address of the operator; (11-1-89)

**b.** The legal description of the exploration operation and its starting and estimated completion date; (11-1-89)  
and

**c.** The anticipated size of the exploration operation and the general method of operation. (11-1-89)

**05. Confidentiality.** The letter shall be treated as confidential in accord with Section 180. (11-1-89)

**06. Exploration Reclamation (Less Than Two Acres).** Every operator who conducts exploration operations affecting less than two (2) acres shall: (11-1-89)

**a.** Wherever possible, contour the affected lands to their approximate previous contour; and (11-1-89)

**b.** Conduct revegetation activities in accordance with Subsection 140.10. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. (11-1-89)

**c.** If water runoff from exploration operations causes siltation of surface waters in excess of that which normally results from runoff, the operator shall prepare affected lands and adjoining lands under his control as is necessary to re-establish conditions of runoff water existing prior to commencement of exploration operations, or as is necessary to meet state water quality standards, whichever is the lesser standard. It shall be presumed that state water quality standards will be the applicable standard unless baseline data is provided to rebut the presumption. (11-1-89)

**07. Exploration Reclamation (More Than Two Acres).** Reclamation required for exploration operations affecting more than two (2) acres: (11-1-89)

**a.** Abandoned exploration drill holes shall be plugged, or otherwise left so as to eliminate hazards to humans and animals. Pits or trenches on federal mining claims showing discovery may be left open pending verification by federal mining examiners but shall not create a hazard to humans or animals. Such abandoned pits and trenches shall be reclaimed within one (1) year of verification. (11-1-89)

**b.** If water runoff from affected lands results in siltation of surface waters in excess of that which normally results from runoff, the operator shall prepare affected lands and adjoining lands under the operator's control as is necessary to meet state water quality standards, or to re-establish conditions of runoff water quality prior to commencing exploration operations, whichever is the lesser standard. It shall be presumed that state water quality standards will be the applicable standard, unless baseline data is provided to rebut the presumption. (11-1-89)

**c.** Abandoned exploration roads shall be cross-ditched as necessary to minimize erosion. The director may request in writing, or be petitioned in writing, that a given road or section of road be left for a specific purpose and not be cross-ditched or revegetated; if such request or petition is approved, the operator cannot thereafter be required to conduct reclamation activities with respect to that given road or section of road. (11-1-89)

**d.** The operator shall conduct revegetation activities in accordance with Subsection 140.10. (11-1-89)

**e.** Ridges of overburden shall be leveled so as to have a minimum width of ten (10) feet at the top. (11-1-89)

**f.** Peaks of overburden shall be leveled so as to have a minimum width of fifteen (15) feet at the top. (11-1-89)

**g.** Overburden piles shall be reasonably prepared to control erosion. (11-1-89)

**h.** Abandoned lands affected by an exploration operation shall be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration operation, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant thereon. (11-1-89)

**i.** Any water containment structure created in connection with exploration operations, shall be reasonably prepared so as not to constitute a hazard to human or animal life. (11-1-89)

**08. Additional Reclamation.** The operator and the director may agree, in writing, to do any act with respect to reclamation above and beyond the requirements set forth in these rules. (11-1-89)

**(BREAK IN CONTINUITY OF SECTIONS)**

**071. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMANENT CLOSURE OF CYANIDATION FACILITIES.**

**01. Permanent Closure Plan Approval Required.** No operator shall construct or operate a new cyanidation facility or materially modify or materially expand an existing cyanidation facility prior to obtaining a permit, approval from the director and before the operator has filed a bond, as required by these rules. (7-13-05)T

**02. Permanent Closure Plan Requirements.** A permanent closure plan shall: (7-13-05)T

**a.** Provide a definition of the current ownership of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility; (7-13-05)T

**b.** Include a timeline showing the schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator shall be responsible for post-closure activities; (7-13-05)T

**c.** Provide the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure; (7-13-05)T

**d.** Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan shall be prepared in accordance with IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," administered by the DEQ, as required to meet the objectives of the permanent closure plan. (7-13-05)T

**e.** Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, and a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (7-13-05)T

**f.** Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including the final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and groundwaters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Engineering designs and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho; (7-13-05)T

**g.** Include monitoring plans for surface and ground water during closure and post-closure periods, adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of Title 47, Chapter 15, Idaho Code; (7-13-05)T

**h.** Provide an assessment of the potential impacts to soils and vegetation for all areas to be used for the land application system and provide a mitigation plan, as appropriate. (7-13-05)T

**i.** Provide information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure; (7-13-05)T

**j.** Provide sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan. (7-13-05)T

**k.** Provide an estimate of the costs necessary to mobilize and complete permanent closure of the cyanidation facility, assuming permanent closure will be completed by the department, including an estimate of the incremental costs of attaining critical phases of the permanent closure plan and a proposed bond release schedule. (7-13-05)T

**l.** Provide any additional information that may be required by the department to ensure compliance



with the objectives of the permanent closure plan and the requirements of Title 47, Chapter 15, Idaho Code. (7-13-05)T

**03. Preapplication Conference.** Prospective applicants are encouraged to meet with the department well in advance of preparing and submitting an application package to discuss the anticipated application requirements and application procedures, and to arrange for a visit or visits to the proposed location of the cyanidation facility. (7-13-05)T

**04. Application Package for Permanent Closure.** An application and its contents submitted to the department shall be used to determine whether an applicant can complete all permanent closure activities in conformance with all applicable state laws. An application must provide information in sufficient detail to allow the director to make necessary application review decisions regarding cyanidation facility closure and protection of public health, safety, and welfare, in accordance with Title 47, Chapter 15, Idaho Code. Five (5) copies of the application package must be submitted to the department. A complete application package for an operator proposing to use cyanidation shall consist of: (7-13-05)T

**a.** A department application form completed, signed, and dated by the applicant. This form shall contain the following information: (7-13-05)T

**i.** Name, location, and mailing address of the cyanidation facility; (7-13-05)T

**ii.** Name, mailing address, and phone number of the operator. An out-of-state operator shall designate an in-state agent authorized to act on his behalf. In case of an emergency that requires actions to prevent environmental damage, both the operator and his agent will be notified; (7-13-05)T

**iii.** Land ownership status (federal, state, private or public); (7-13-05)T

**iv.** The approximate boundaries of the lands where the cyanidation facility will be located, including legal description to the quarter-quarter section; and (7-13-05)T

**v.** The legal structure (corporation, partnership, etc.) and primary place of business of the operator. (7-13-05)T

**b.** Evidence that the applicant is authorized by the Secretary of State to conduct business in the state of Idaho; (7-13-05)T

**c.** A permanent closure plan as prescribed in Subsection 071.02; (7-13-05)T

**d.** The DEQ application and supporting materials; (7-13-05)T

**e.** The five thousand dollar (\$5,000) application processing and review fee, as defined in Subsection 071.05.a. (7-13-05)T

**05. Application fee.** The application fee shall consist of two (2) parts: (7-13-05)T

**a. Processing and Review Fee.** (7-13-05)T

**i.** The applicant shall pay a nonrefundable five thousand dollar (\$5,000) fee upon submission of an application. Within thirty (30) days of receiving an application and this fee, the director shall provide a detailed cost estimate to the operator which includes a description of the scope of the department's review; the assumptions on which the department's estimate is based; and an itemized accounting of the anticipated number of labor hours, hourly labor rates, and travel expenses and any other direct expenses the department expects to incur, and indirect expenses equal to ten percent (10%) of the department's estimated direct costs, as required to satisfy its statutory obligation pursuant to Title 47, Chapter 15, Idaho Code. (7-13-05)T

**ii.** If the department's estimate is greater than five thousand dollars (\$5,000), the applicant may agree to pay a fee equal to the difference between five thousand dollars (\$5,000) and the department's estimate, or may

commence negotiations with the department to establish a reasonable fee. (7-13-05)T

iii. If, within twenty (20) days from issuance of the department's estimate, the department and applicant cannot agree on a reasonable application processing and review fee, the applicant may appeal to the board. The board shall: (7-13-05)T

(1) Review the department's estimate; (7-13-05)T

(2) Conduct a hearing where the applicant is allowed to give testimony to the board concerning the department's estimate; and (7-13-05)T

(3) Establish the amount of the application review and processing fee. (7-13-05)T

iv. If the fee is more than five thousand dollars (\$5,000), the applicant shall pay the balance of the fee within fifteen (15) days of the board's decision or withdraw the application. (7-13-05)T

v. Nothing in this section shall extend the time in which the board must act on a plan submitted. (7-13-05)T

**b. Permanent Closure Cost Estimate Verification Fee.** (7-13-05)T

i. Pursuant to Sections 47-1506(g) and 47-1513(j), Idaho Code, the department may employ a qualified independent party, acceptable to the operator and the board, to verify the accuracy of the permanent closure cost estimate. (7-13-05)T

ii. The applicant shall be solely responsible for paying the department's cost to employ a qualified independent party to verify the accuracy of the permanent closure cost estimate. The applicant may participate in the department's processes for identifying qualified parties and selecting a party to perform this work. (7-13-05)T

iii. If a federal agency has responsibility to establish the bond amount for permanent closure of a cyanidation facility on federal land, the department may employ the firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate. If the director chooses not to employ the firm retained by the federal agency, he shall provide a written justification explaining why the firm was not employed. (7-13-05)T

~~071072.~~ -- 079. (RESERVED).

**080. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION TO PERFORM SURFACE MINING, RECLAMATION, AND ORE PROCESSING USING CYANIDE.**

**01. Return of Application.** ~~Within thirty (30) days after receipt by the department, an application for a surface mining reclamation plan may be returned for correction and resubmission if either the reclamation plan or mine map(s) are incomplete. Return of an application by the director shall constitute a rejection pursuant to Section 47-1507(b), Idaho Code.~~ (11-1-89)(7-13-05)T

**a.** Surface mining reclamation. Within thirty (30) days after receipt of a reclamation plan by the department, an application for surface mining reclamation may be returned for correction and resubmission if either the reclamation plan or mine map(s) are incomplete. Return of an application by the director shall constitute a rejection in accordance with Section 47-1507(b), Idaho Code. (7-13-05)T

**b.** Permanent closure plans for cyanidation facilities. Within thirty (30) days after receipt of a permanent closure plan by the department, an application for permanent closure of a cyanidation facility may be returned for correction and resubmission, if the permanent closure plan does not meet the requirements of Section 071 of these rules. Return of an application by the director shall constitute a rejection in accordance with Section 47-1507(b), Idaho Code. (7-13-05)T

**02. Agency Comments.** Nonconfidential materials submitted under Sections 069, ~~and~~ 070, and 071 shall be forwarded by the director to the Departments of Water Resources, Environmental Quality (DEQ), and Fish

and Game for review and comment. Such review and comment shall not extend the legal time limit for the director to notify the applicant of a decision on the application. The director may decide not to circulate applications submitted under Section 069 if the impacts of such proposed activities are minor and do not involve surface waters. The director may provide public notice on receipt of a reclamation plan or permanent closure plan. In addition, a copy of an application will be provided to individuals who request the information in writing. ~~(7-1-98)~~(7-13-05)T

**03. Notification of Cities and Counties.** Upon receipt of a proposed reclamation plan or a permanent closure plan for a cyanidation facility or an amended or supplemental plan, amended or supplemental reclamation plan, the director shall notify the cities and counties in which the surface mining or cyanidation facility operation is proposed. The notice shall include the name and address of the operator and shall describe the procedure and the schedule by which the plan may be approved or denied. This notification requirement shall not apply to exploration operations. ~~(7-1-98)~~(7-13-05)T

**a.** Cities and counties may review the nonconfidential portions of the plan at the department's office and may provide comments to the director concerning the plan. Nothing in this section shall extend the time limit for the board to deliver to the operator a notice of rejection or approval of the plan or affect the confidentiality provisions of Idaho Code Title 47, Chapter 15. (7-1-98)

**b.** No city or county shall enact or adopt any ordinance, rule or resolution to regulate exploration or surface mining operations or permanent closure plan in this state which conflicts with any provision of this chapter or the rules promulgated thereunder. This subpart shall not affect the planning and zoning authorities available to cities and counties pursuant to Idaho Code Title 67, Chapter 65.. ~~(7-1-98)~~(7-13-05)T

**04. Decision on a Reclamation Plan Application in Sixty Days.** The director must notify the applicant in writing of approval or denial within sixty (60) days of receipt of the application, unless the director is prevented from inspecting the proposed surface mining site as provided in Subsection 080.10 of these rules or unless the sixty (60) day time period allowed for the department's review is extended pursuant to Section 47-1512(c), Idaho Code. If the director fails to deliver a notice of approval or denial within this time period, the application shall be deemed to comply with these rules, and the applicant may proceed, with bonding requirements under Section 120, as though if approval for the application ~~had~~ has been received. ~~(7-1-98)~~(7-13-05)T

**05a. Approval.** Following review of an application for approval of a new reclamation plan, or for amendment of an existing plan, the director shall approve the application if it meets the requirements of the rules, the ~~act~~ chapter, and other pertinent laws and regulations, and shall deliver written notice of the decision to the operator. Operations may then commence after the bonding requirements of Section 120 are met. ~~(11-1-89)~~(7-13-05)T

**06b. Inspections.** If the director deems a field inspection of the proposed surface mining operations site necessary in processing an application, the applicant will be contacted and asked that he or his duly authorized employee or agent be present. The applicant shall make such persons available for the purpose of inspection. This rule shall not prevent the department from making an inspection of the site if the applicant does not appear. (11-1-89)

**05. Decision on Cyanidation Facility Permanent Closure Plans.** Pursuant to Sections 47-1507 and 47-1508, Idaho Code, following review of a complete application, the director shall: (7-13-05)T

**a.** Coordination with DEQ. Initiate a coordinated interagency review of the application by providing a notice in writing to the DEQ director that the department has received an application for permanent closure of a cyanidation facility; (7-13-05)T

**b. Approval.** (7-13-05)T

**i.** Within one-hundred eighty (180) days of receipt of an application that complies with Subsection 071.04 of these rules, the department shall provide written notice to the applicant that the permanent closure plan is approved or denied and, if approved, the amount of the permanent closure bond required; or (7-13-05)T

**ii.** If the director does not take action within one-hundred eighty (180) days, a permanent closure plan, or any amendments or supplementary plans thereof, shall be deemed to comply with the provisions of Title 47, Chapter 15, Idaho Code, unless the one hundred eighty (180) day time period is extended in accordance with Section

47-1512(d), Idaho Code.

(7-13-05)T

**c.** Inspections. The director may determine to perform an inspection of the proposed cyanidation facility location if the inspection will provide additional information or otherwise aid in processing of the application. (7-13-05)T

**i.** If the director determines to inspect the site, the applicant will be contacted and asked that he or an authorized employee or agent be present. The department may proceed with an inspection if the applicant or his designated employee or agent does not appear. (7-13-05)T

**ii.** If weather conditions preclude an inspection of the proposed cyanidation facility, the director shall provide written notice to the applicant that processing of the application has been suspended until weather conditions permit an inspection, and notify the applicant in writing that the schedule for a decision on the permanent closure plan is extended for a period up to thirty (30) days after weather conditions permit such inspection. (7-13-05)T

**076.** **Nonpoint Pollution.** When the director determines, after consultation with DEQ, that there is a reasonable potential for nonpoint source pollution of adjacent surface waters, the director shall request, and the operator shall provide to the director, baseline preproject surface water monitoring information and furnish ongoing monitoring data during the life of the project. This provision shall not require any additional baseline preproject surface water monitoring information or ongoing monitoring data where such information or data is already required to be provided pursuant to any federal or state law and is available to the director. (11-1-89)

**07. Permanent Closure Plan Approval.**

(7-13-05)T

**a.** The department may condition its approval on issuance of a permit by the DEQ for the cyanidation facility. (7-13-05)T

**b.** Except for the concurrent and additional permanent closure requirements that may be established in a permit issued by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.03, "Rules for Ore Processing by Cyanidation," an approved permanent closure plan shall define the nature and extent of the operator's obligation under the chapter. (7-13-05)T

**c.** The permanent closure plan, as approved by the department in coordination with the DEQ, shall be incorporated by reference into the cyanidation facility permit issued by DEQ as a permit condition and shall be enforceable as such. The operator shall ensure that closure complies with the approved plan and any additional permanent closure requirements as outlined in the permit issued by DEQ. (7-13-05)T

**d.** No sooner than one hundred twenty (120) days after an application for a permanent closure plan has been submitted to the department, the applicant may submit a reclamation plan as required by Section 070 of these rules. The department will review and approve the reclamation plan in accordance with Section 080. (7-13-05)T

**e.** Approval of a permanent closure plan by the department is required even if approval of such plan has been or will be obtained from an appropriate federal agency. (7-13-05)T

**08. Reasons for Denial.** If the director rejects an application, the director must also deliver in writing to the applicant a statement of the reasons the application was rejected, the factual findings upon which the rejection was based (if applicable), a statement of the rule(s) involved, the manner in which the application failed to fulfill the requirements of these rules, and the action that must be taken or conditions that must be satisfied in order to meet the requirements of these rules. The applicant may then submit an amended application which will be processed as described in Section 080. The director shall deny a permanent closure application if: (~~11-1-89~~)(7-13-05)T

**a.** The application is inaccurate or incomplete;

(7-13-05)T

**b.** The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect public safety, health, and welfare, in accordance with the scope and intent of these rules, or to protect beneficial uses of the waters of the state, as determined by the DEQ pursuant to Section 39-118A, Idaho Code and

IDAPA 58.01.03, "Rules for Ore Processing by Cyanidation" and other DEQ rules cited therein. (7-13-05)T

**09. Public Hearing.** The director may, at his discretion, call a public hearing to determine whether a proposed application complies with these rules. The hearing shall be conducted according to Section 110. A hearing may not cause the director's action on a plan to extend beyond sixty (60) days from time the plan was received by the director. (11-1-89)

**10. Notification of Decision.** ~~The~~ For surface mining operations, the applicant will be notified in writing of the director's decision to approve or reject the application within sixty (60) days of its receipt. If, pursuant to Section 47-1507(c), Idaho Code, weather conditions prevent the director from inspecting the proposed surface mining site to acquire the information required to evaluate the application, the application may be placed in suspense, pending improved weather conditions. The director's decision upon the application must be given to the applicant in writing within thirty (30) days of the date that weather conditions permit inspection. If the director fails to take action within the statutory time limits, the plan shall be deemed to comply with the ~~act~~ chapter and the operator may commence operations upon furnishing a bond to the department that meets the requirements of these rules. (11-1-89)(7-13-05)T

**11. Approved Reclamation Plan.** Notice of approval shall constitute an approval of the reclamation plan and such approved plan shall govern and determine the nature and extent of the reclamation obligations of the operator. A bond in accord with Section 120 must be received by the department before surface mining operations can begin. (11-1-89)(7-13-05)T

**12. Referral to Board.** The director may refer the decision concerning approval or rejection of an application to the board. This action will not operate to extend the time allowed the director for review and decision under these rules. (11-1-89)

**13. Additional Reclamation.** The operator and the director may agree, in writing, to do any act with respect to reclamation above and beyond the requirements set forth in these rules. (11-1-89)

**14. Appeal of Final Order.** Any final order of the board regarding an application for ~~approval of~~ a surface mining reclamation plan or for permanent closure of a cyanidation facility may be appealed ~~pursuant to Subsection 160.07~~ as set forth in Section 47-1514, Idaho Code. (11-1-89)(7-13-05)T

**081. -- 089. (RESERVED).**

**090. AMENDING AN APPROVED RECLAMATION PLAN.**

**01. Application for Amendment.** In the event that a material change arises which the operator, or the director believes require a change in the reclamation plan, the operator will submit an application to amend the plan and state the reasons therefor. If the director identifies a material change which the director believes requires a change in the reclamation plan, the director must deliver in writing, to the operator, a detailed statement identifying the material change. The director must also identify in writing, the action(s) that must be taken to amend the plan and address the material changes. (7-1-98)

**02. Review of Amendment.** The director will process an application to amend a plan in accord with Section 080 and Section 110; provided, however, that no (1) land, or (2) aspect or provision of an approved reclamation plan, that would not be affected by the proposed amendment, shall be subject to such amendment or to review or reapproval in connection with the processing of an application for such an amendment; nor may approval of an amendment to the reclamation plan be conditioned upon the performance of any act not required by the reclamation plan or the proposed amendment itself, unless the operator agrees to perform that act. (11-1-89)

**03. Minor Amendments.** Minor amendments to an approved reclamation plan may be made by agreement between the director and the operator, if the amendment is consistent with the overall objectives of the approved reclamation plan and so long as water quality standards will be met and existing beneficial uses will be protected. (11-1-89)

**091. AMENDING AN APPROVED PERMANENT CLOSURE PLAN.**

**01. Cause for Permanent Closure Plan Amendment.** In the event circumstances arise that necessitate amendments to an approved permanent closure plan, the operator shall submit an application to amend the permanent closure plan and state the reasons the amendment is necessary. Either the operator or the director may initiate a process to amend an approved permanent closure plan. Circumstances that could require a permanent closure plan to be amended include: (7-13-05)T

**a.** A material modification or material expansion in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate. (7-13-05)T

**b.** Conditions substantially different from those anticipated in the original permit for which the approved permanent closure plan is no longer adequate. (7-13-05)T

**c.** A material change as defined in Subsections 010.20.b.i. and 010.20.b.ii. of these rules. (7-13-05)T

**02. Modifications at an Operator's Request.** Requests from an operator to modify a permanent closure plan shall be submitted to the department in writing. The director shall process an application for amendment in accordance with Section 080. An application to amend a permanent closure plan shall include: (7-13-05)T

**a.** A written description of the circumstances that necessitate the amendment; (7-13-05)T

**b.** Data supporting the request; (7-13-05)T

**c.** The proposed amendment; (7-13-05)T

**d.** A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to Title 47, Chapter 15, Idaho Code; (7-13-05)T

**e.** A cost estimate to implement the amended permanent closure plan, prepared in accordance with Subsection 071.02 of these rules; and (7-13-05)T

**f.** Payment of a reasonable fee as may be determined by the director in accordance with Section 47-1512, Idaho Code. (7-13-05)T

**03. Modification at Request of Director.** If, following consultation with the DEQ, the director determines that cause exists to amend the permanent closure plan the director shall notify the operator in writing of his determination and explain the circumstances that have arisen which require the permanent closure plan to be amended. Within thirty (30) days or as agreed by the operator and the department, the operator shall submit an application to amend the permanent closure plan in accordance with Subsection 091.02. (7-13-05)T

**04. Minor Amendments.** Minor amendments to an approved permanent closure plan may be made by agreement between the director and the operator, if the amendment is consistent with the overall objectives of the approved permanent closure plan and so long as water quality standards will be met and existing beneficial uses will be protected. (7-13-05)T

~~091092.~~ -- 099. (RESERVED).

**100. DEVIATION FROM AN APPROVED RECLAMATION PLAN.**

**01. Unforeseen Events.** If an operator finds that unforeseen events or unexpected conditions require immediate change from an approved plan, the operator may continue surface mining in accordance with the procedures dictated by the changed conditions, pending submission and approval of an amended plan, even though operations do not comply with the currently approved plan. This shall not excuse the operator from complying with the reclamation requirements and best management practices of Section 140 and bond requirements of Section 120. (11-1-89)

**02. Notification.** The director shall be notified within ten (10) days of the discovery of events or

unexpected conditions that require deviation from the approved plan. A proposed amendment to the plan will be submitted by the operator to the director within thirty (30) days of the discovery of the unforeseen events or unexpected conditions. (11-1-89)

**101. -- 109. (RESERVED).**

**110. PUBLIC HEARING.**

**01. Public Concern.** The director may call for a public hearing following the preliminary review of the application and any concern registered with the director by the public, affected landowners, or any governmental entity which may be affected. The sole purpose of the hearing under this subsection shall be to gather written and oral statements as to whether the proposed reclamation plan or permanent closure plan meets the requirements of the ~~act~~ chapter and these rules. (~~7-1-89~~)(7-13-05)T

**02. Agency Concern.** The director shall call for a public hearing when the director determines, after consultation with the Departments of Water Resources, Environmental Quality (DEQ), Fish and Game, and affected Indian tribes (pursuant to Subsection 080.076), that proposed surface mining operations can reasonably be expected to significantly degrade adjacent surface waters. A hearing held under this subsection will be conducted to receive comment on the measures the operator will use to protect surface water quality from nonpoint source water pollution. (~~7-1-98~~)(7-13-05)T

**03. Consolidation.** If the director determines that a hearing should be held under Subsections 110.01; and 110.02, ~~and 120.01~~, the director shall order that such proceedings be consolidated. The applicant and the public must be advised of the specific subjects to be discussed at the hearing at least twenty (20) days prior to the hearing. (~~7-1-98~~)(7-13-05)T

**04. Hearing Location.** A hearing shall be held in the locality of the proposed surface mine or a proposed cyanidation facility at a reasonably convenient time and place for public participation. The director may call for more than one hearing when conditions warrant. (~~11-1-89~~)(7-13-05)T

**05. Notice.** The director shall give notice of the date, time, and place of the hearing to the applicant, to federal, state, local agencies, and Indian tribes which may have an interest in the decision, as shown on the application; to all persons petitioning for the hearing, if any; and to any person identified by the applicant pursuant to Subsection 070.02.e. as an owner of the specific acreage to be affected by the reclamation plan. Notice to the applicant must be sent by certified mail and postmarked not less than twenty (20) days before the scheduled date of the public hearing. (11-1-89)

**06. Publication of Notice.** The director shall provide at least twenty (20) days advance notice to the general public of the date, time, and place of the hearing. A newspaper advertisement will be placed once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. (11-1-89)

**a.** In the event a hearing is ordered under ~~Subsection 110.03~~, the notice ~~to the public~~ shall describe: (7-13-05)T

**i.** ~~The~~ potentially significant surface water quality degradation and ~~shall contain~~ the operator's description of the measures that will be taken to prevent degradation of adjacent surface waters from nonpoint sources of pollution; or The foregoing shall be discussed at the public hearing. (~~11-1-89~~)(7-13-05)T

**ii.** The objectives of a permanent closure plan that have been submitted for review. (7-13-05)T

**b.** A copy of the application shall be placed for review in a public place in the local area of the proposed surface mining operation or cyanidation facility, in the closest Department of Lands' area office, and the Department of Lands administrative offices in Boise. (~~11-1-89~~)(7-13-05)T

**07. Hearing Officer.** The hearing shall be conducted by the director or his designated representative. Both oral and written testimony will be accepted. Proceedings of the hearing will be tape recorded and, if requested, a verbatim transcript will be prepared. (11-1-89)

**08. Consideration of Hearing Record.** The department shall consider the hearing record when reviewing reclamation plans or permanent closure plans for final approval or rejection. ~~(11-1-89)~~(7-13-05)T

**111. COMPLETION OF PERMANENT CLOSURE.**

**01. Implementation of a Permanent Closure Plan.** Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan. (7-13-05)T

**a.** Within one (1) year of the final addition of new cyanide to the ore process circuit for small cyanidation processing or pilot facilities; or (7-13-05)T

**b.** Within two (2) years of the final addition of new cyanide to the ore process circuit for all other cyanidation facilities; or (7-13-05)T

**c.** If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (7-13-05)T

**02. Submittal of a Permanent Closure Report.** The operator shall submit a permanent closure report to the department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the department and DEQ to issue a determination that permanent closure, as defined by Subsection 010.33, has been achieved. The permanent closure report shall address: (7-13-05)T

**a.** The effectiveness of material stabilization. (7-13-05)T

**b.** The effectiveness of the water management plan and the adequacy of the monitoring plan. (7-13-05)T

**c.** The final configuration of the cyanidation facility and its operational/closure status. (7-13-05)T

**d.** The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (7-13-05)T

**e.** The operational/closure status of any land application site of the cyanidation facilities. (7-13-05)T

**f.** Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short- and long- term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (7-13-05)T

**g.** The short- and long-term water quality trends in surface and ground water through the statistical analysis of the existing monitoring data pursuant to the ore-processing by cyanidation permit. (7-13-05)T

**h.** Ownership and responsibility for the site upon permanent closure during the defined post-closure period. (7-13-05)T

**i.** The future beneficial uses of the land, surface and ground waters in and adjacent to the closed cyanidation facilities. (7-13-05)T

**j.** How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (7-13-05)T

**112. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.**

**01. Determination of Approval or Disapproval.** Within sixty (60) days of receipt of a permanent closure report, the director shall issue to the operator a director's determination of approval or disapproval of the



permanent closure report. (7-13-05)T

**02. Permanent Closure Report.** The director's determination to approve or disapprove a permanent closure report shall be based on the permanent closure report's demonstration that permanent closure has resulted in long-term neutralization of process waters and material stabilization. If a permanent closure report is disapproved, the director shall provide in writing identification of: (7-13-05)T

- a.** Errors or inaccuracies in the permanent closure report. (7-13-05)T
- b.** Issues or details which require additional clarification. (7-13-05)T
- c.** Failures to fully implement the approved permanent closure plans. (7-13-05)T
- d.** Failures to ensure protection for public health, safety, and welfare or to prevent degradation of waters of the state. (7-13-05)T
- e.** Outstanding violations or other noncompliance issues. (7-13-05)T
- f.** Other issues supporting the department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (7-13-05)T

**111. -- 119. (RESERVED).**

**120. PERFORMANCE BOND REQUIREMENTS FOR SURFACE MINING.**

**01. Submittal of Bond Before Surface Mining.** Prior to beginning any surface mining on a mine panel covered by a plan, an operator shall submit to the director, on a surface mining reclamation bond form, a performance bond meeting the requirements of this rule. The amount shall be the amount necessary to pay the estimated reasonable costs of reclamation required under the reclamation plan for each acre of land to be affected during the first year of operation, plus ten (10%) percent. No performance bond shall exceed two thousand five hundred (\$2,500) for a given acre of affected land except as provided by the rules. A performance bond in excess of two thousand five hundred (\$2,500) for any given acres of affected land may be required by the board only when the following conditions have been met: (~~7-1-98~~)(7-13-05)T

- a.** The board has determined that such performance bond is necessary to meet the requirements of Sections 060, 068, 069, 070, and 140. (7-1-98)
- b.** The board has delivered to the operator, in writing, a notice setting forth the reasons the director believes such performance bond is necessary. (7-1-98)
- c.** The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond, as provided in Section 47-1512(c)(3), Idaho Code. The hearing shall be held under such rules as promulgated by the board. This requirement for a hearing may be waived in writing, by the operator. Any hearing shall ~~not~~ extend the period of time limit up to thirty (30) days in which the board must act on a plan submitted. (~~7-1-98~~)(7-13-05)T

**02. Mining Operation Conducted by Public or Government.** Notwithstanding any other provision of law to the contrary, the bonding provisions of these rules shall not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. (7-1-98)

**03. Limits.** Only surface mining reclamation bonds obtained subsequent to January 1, 1997, may be assessed at actual costs plus ten percent (10%), not to exceed two thousand five hundred dollars (\$2,500) per acre except as provided by Subsection 120.01, or if a material change arises in accordance to Subsection 090.01. Any revision to the amount, term and conditions of a performance bond due to a material change in the reclamation plan shall apply only to the affected lands covered by the material change in the reclamation plan. (~~7-1-98~~)(7-13-05)T

**04. Annual Bond Review.** At the beginning of each calendar year, the operator shall notify the director

of any increase in the acreage of affected land which will result from planned surface mining activity within the next twelve (12) months. A correlative increase in the bond will be required for an increase in affected acreage. (11-1-89)

a. The bond shall be submitted on the appropriate bond form within ninety (90) days of operator's receipt of notice that additional bond is required, but in no event shall surface mining operations be conducted that would affect such additional acreage until the appropriate bond form has been submitted. Acreage on which reclamation is complete shall be reported in accord with Subsection 120.095 and after release of this acreage from the plan by the director, the bond may be reduced by the amount appropriate to reflect the completed reclamation.

(7-1-98)(7-13-05)T

b. Any bond provided to the federal government that also meets the requirements of this section shall be sufficient for the purposes of these rules. (11-1-89)

**05- ~~Form of Performance Bond.~~** (11-1-89)

~~a. Corporate Surety Bond. This is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, on a surface mine bond form supplied by the director. The bond is to be conditioned that the operator shall faithfully perform all requirements of these rules in effect as of the date of approval of the reclamation plan, and will be payable to the state of Idaho.~~ (11-1-89)

~~b. Collateral Bond. This is an indemnity agreement executed by or for the operator, and payable to the state of Idaho, pledging cash deposits, governmental securities, or negotiable certificates of deposit of any financial institution authorized to do business in Idaho. Collateral bonds shall be subject to the following conditions:~~ (11-1-89)

~~i. The director shall obtain possession, and upon receipt of such collateral bonds, deposit such cash or securities with the state treasurer to hold in trust for the purpose of bonding reclamation performance;~~ (11-1-89)

~~ii. The director shall value collateral at its current market value, not face value;~~ (11-1-89)

~~iii. Certificates of deposit shall be issued or assigned to the state of Idaho, in writing, and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand, to the operator, or other person which posted the collateral bond;~~ (11-1-89)

~~iv. Amount of an individual certificate shall not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors;~~ (11-1-89)

~~v. Financial institutions issuing such certificates shall waive all rights of set-off or liens which it has or might have against such certificates;~~ (11-1-89)

~~vi. Any such certificates shall be automatically renewable; and~~ (11-1-89)

~~vii. The certificates of deposit shall be of sufficient amount to ensure that the director would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond, including any penalty for early withdrawal.~~ (11-1-89)

~~e. Letters of Credit.~~ (11-1-89)

~~i. A letter of credit is an instrument executed by a bank doing business in Idaho, made at the request of a customer, which states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit;~~ (11-1-89)

~~ii. All credits shall be irrevocable and prepared in a format prescribed by the director;~~ (11-1-89)

~~iii. All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho; and~~ (11-1-89)

~~iv. The account party on all credits must be identical to the entity identified on the surface mining reclamation plan as the party obligated to do the reclamation. (11-1-89)~~

~~06. **Blanket Bond.** Where an operator is involved in numerous surface operations, the director may accept a blanket bond in lieu of separate bonds under approved plans. The amount of such bond shall comply with other applicable provisions of Section 120 and shall be equal to the total of the penalties of the separate bonds being combined into a single bond. The bonded principal shall be liable for an amount not to exceed the approved bond rate per affected acre multiplied by the number of affected acres should action be taken against the bond under Subsection 120.11. (7-1-98)~~

~~07. **Notice of Cancellation.** Any surety company cancelling a bond shall give the department at least ninety (90) days notice prior to cancellation. The director shall not release a surety from liability under an existing bond until the operator has submitted to the director an acceptable replacement bond or reclaimed the site. Replacement bonds shall cover any liability accrued against the bonded principal on the surface mined area covered by the previous bond. If an operator fails to submit an acceptable replacement bond prior to the effective date of cancellation of the original bond, or within thirty (30) days following written notice of cancellation by the director, whichever is later, the director may issue a cease and desist order and seek injunctive relief to stop the operator from conducting surface mining operations on the lands covered by the bond until such replacement has been made. (11-1-89)~~

~~08. **Revocation of Surety License.** If a surety's Idaho business license is suspended or revoked, the operator shall, within thirty (30) days after notice by the department, find a substitute for such surety. The substitute surety must be licensed to do business in Idaho. If the operator fails to secure such substitute surety, the director may issue a cease and desist order and seek injunctive relief to stop the operator from conducting surface mining operations on the lands covered by the bond until a substitution has been made. (11-1-89)~~

**095. Bond Reduction.** (11-1-89)

a. Upon finding that any land bonded under a reclamation plan will not be affected by mining, the operator shall notify the director. The amount of the bond shall be reduced by the amount being held to reclaim those lands. (11-1-89)

b. Any request for bond reduction shall be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (11-1-89)

~~106. **Bond Release.** Upon completion of the reclamation specified in the plan, the operator shall notify the director of his desire to secure release from bonding. When the director has verified that the requirements of the reclamation plan have been met as stated in the plan, the bond shall be released. (11-1-89)~~

a. Any request for bond release shall be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (11-1-89)

b. If the director finds that a specific portion of the reclamation has been satisfactorily completed, the bond may be reduced to the amount required to complete the remaining reclamation. The following schedule will be used to complete these bond reductions unless the director determines in a specific case that this schedule is not appropriate and specifies a different schedule: (11-1-89)

i. Sixty percent (60%) of the bond may be released when the operator completes the required backfilling, regrading, topsoil replacement, and drainage control of the bonded area in accordance with the approved reclamation plan; and (11-1-89)

ii. After revegetation activities have been performed by the operator on the regraded lands, according to the approved reclamation plan, the department may release an additional twenty-five percent (25%) of the bond. (11-1-89)

c. The remaining bond shall not be released: (11-1-89)

i. As long as the affected lands are contributing suspended solids to surface waters outside the affected area in excess of state water quality standards and in greater quantities than existed prior to the commencement of surface mining operations; (11-1-89)

ii. Until final removal of equipment and structures related to the mining activity or until any remaining equipment and structures are brought under an approved reclamation plan and bond by a new operator; and (11-1-89)

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved reclamation plan and bond by a new operator. (11-1-89)

~~**11. Criteria for Forfeiture.** A bond may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation in accord with the approved reclamation plan and the applicable requirements of these rules. (11-1-89)~~

~~**1207. Cooperative Agreements.** The director may through private conference, conciliation, and persuasion reach a cooperative agreement with the operator to correct deficiencies in complying with the reclamation plan and thereby postpone action to forfeit the bond and cancel the reclamation plan if all deficiencies are satisfactorily corrected within the time specified by the cooperative agreement. (11-1-89)~~

~~**1308. Bonding Rate.** An operator may petition the director for a change in the initial bond rate. The director will review the petition, and if satisfied with the information presented, a special bond rate will be set based upon the estimated cost that the director would incur should a forfeiture of bond occur and it became necessary for the director, through contracting with a third party, to complete reclamation to the standards established in the plan. (11-1-89)~~

~~**1409. Liabilities for Unbonded Reclamation Costs.** An operator who: (11-1-89)~~

~~a. Departs from his approved reclamation plan by performing an act or omission and such deviation is not subsequently approved; (11-1-89)~~

~~b. Does not furnish a bond required by these rules; and (11-1-89)~~

~~c. Is not required to furnish a bond by these rules, but fails to reclaim; is in violation of these rules and may be subject to civil penalty under Section 47-1513(c), Idaho Code. The amount of civil penalty shall be the estimated cost of reasonable reclamation of affected lands as determined by the director. Reasonable reclamation of the site shall be presumed to be in accordance with the standards established in the approved reclamation plan. The amount of the civil penalty shall be in addition to those described in Subsection 160.06. (11-1-89)~~

**121. PERFORMANCE BOND REQUIREMENTS FOR CYANIDATION FACILITIES.**

**01. Submittal of Bond Before Operating a Cyanidation Facility.** Prior to beginning construction or operation of a cyanidation facility, but no later than ninety (90) days after approval of a permanent closure plan, an operator shall submit to the director, on a permanent closure plan bond form, a performance bond meeting the requirements of Section 47-1512(a)(2), Idaho Code. The amount shall be the amount necessary to cover the estimated reasonable costs for the department to implement the permanent closure plan plus ten percent (10%), in the event a bond is forfeited. (7-13-05)T

**02. Limits.** The board may require a bond in excess of five million dollars (\$5,000,000) if the following conditions have been met: (7-13-05)T

**a.** The board has determined that such a performance bond is necessary to meet the requirements of Title 47, Chapter 15, Idaho Code; (7-13-05)T

**b.** The board has delivered to the operator, in writing, a notice explaining the reasons such a performance bond is necessary; (7-13-05)T

c. The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond, as provided in Section 47-1512(d)(3), Idaho Code. Any hearing held by the board concerning the performance bond amount for permanent closure of a cyanidation facility shall, at the discretion of the director, extend the time to issue a decision on a permanent closure plan up to sixty (60) days. This requirement for a hearing may be waived, in writing, by the operator. (7-13-05)T

**03. Other Government Agency Bonds.** Upon a finding by the director that the bond amount established by a federal agency is inadequate because it has not included one (1) or more permanent closure tasks required by the state, the department may require the operator to file the additional bond amount necessary to satisfy the requirements of Title 47, Chapter 15, Idaho Code. (7-13-05)T

**04. Bond Review.** The department shall periodically review all performance bonds filed for permanent closure to determine its sufficiency to complete the work required by an approved plan. (7-13-05)T

a. Once every three (3) years, the operator shall submit an updated permanent closure cost estimate to the department for review. The director will review the updated estimate to determine whether the existing bond amount is adequate to implement the permanent closure plan, as approved by the department. Any resulting change in the bond amount does not in and of itself require an amendment to the permanent closure plan as may be required by Section 091 of these rules. The director will review the estimate to determine whether the existing bond amount is adequate to complete permanent closure of the cyanidation facility. (7-13-05)T

b. When the director determines that there has been a material change in the estimated reasonable costs to complete permanent closure: (7-13-05)T

i. The director shall notify the operator in writing of his intent to reevaluate the performance bond amount. Within a reasonable time period determined by the department, the operator shall provide to the department a revised cost estimate to complete permanent closure as approved by the department. (7-13-05)T

ii. Within thirty (30) days of receipt of the revised cost estimate the director shall notify the operator in writing of his determination of bond adequacy. (7-13-05)T

iii. Within ninety (90) days of notification of the director's assessment, the operator shall make the appropriate adjustment to the bond or the director will reduce the bond as appropriate. (7-13-05)T

c. The department may conduct an internal review of the amount of each bond annually to determine whether it is adequate to complete permanent closure. (7-13-05)T

d. For bond reviews conducted pursuant to Subsections 121.04.a. and 121.04.b., the director may employ a qualified independent party to verify the accuracy of the revised estimated costs to complete permanent closure. The qualified independent party shall be employed and the operator shall pay a reasonable fee pursuant to Subsection 071.05.b. (7-13-05)T

**05. Bond Reduction.** A performance bond for permanent closure may be reduced if, during the department's review of the performance bond pursuant to Subsection 121.04, the estimated costs to complete permanent closure of the subject cyanidation facility will be lower than the amount bonded at that time. (7-13-05)T

**06. Bond Release.** (7-13-05)T

a. A bond filed for permanent closure of a cyanidation facility shall be released according to the schedule in the permanent closure plan. The schedule shall include provisions for the release of the post closure monitoring and maintenance portions of the bond. The schedule may be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness. (7-13-05)T

b. Upon completion of an activity required by an approved permanent closure plan, the operator may request in writing a bond reduction for that activity. When the director, in consultation with DEQ, has verified that the activity meets the requirements of the permanent closure plan, the bond shall be reduced by an amount to reflect the activity completed. (7-13-05)T

c. Upon the director's determination that all activities specified in the permanent closure plan have been successfully completed, the department will release the balance remaining after partial bond releases, in accordance with Section 47-1512(i), Idaho Code. (7-13-05)T

07. **Liabilities for Unbonded Permanent Closure Costs.** An operator who is in violation of Title 47, Chapter 15, Idaho Code or any provision of these rules may be subject to civil penalties under Section 47-1513(f), Idaho Code. (7-13-05)T

**122. FORM OF PERFORMANCE BOND.**

01. **Corporate Surety Bond.** This is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, on a reclamation bond form or a permanent closure bond form supplied by the director. The bond shall be payable to the state of Idaho, and shall be conditioned to require the operator shall faithfully perform all requirements of Title 47, Chapter 15, Idaho Code and the rules in effect as of the date that a reclamation plan or a permanent closure plan was approved by the department. (7-13-05)T

02. **Collateral Bond.** This is an indemnity agreement executed by or for the operator, and payable to the state of Idaho, pledging cash deposits, government securities, or negotiable certificates of deposit of any financial institution authorized to do business in Idaho. Collateral bonds shall be subject to the following conditions: (7-13-05)T

a. The director shall obtain possession of and upon receipt of a collateral bond, deposit it with the state treasurer to hold in trust for the purpose of bonding reclamation or permanent closure performance; (7-13-05)T

b. The director shall value collateral at its current market value, not its face value; (7-13-05)T

c. Certificates of deposit shall be issued or assigned to the state of Idaho, in writing, and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand, to the operator, or other person who posted the collateral bond; (7-13-05)T

d. Amount of an individual certificate shall not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors; (7-13-05)T

e. Financial institutions issuing such certificates shall waive all rights of set-off or liens which it has or might have against such certificates; (7-13-05)T

f. Certificates of deposit shall be automatically renewable; and (7-13-05)T

g. Certificates of deposit shall be of sufficient amount to ensure that the director would be able to liquidate them before maturity upon forfeiture for the amount of the required bond, including any penalty for early withdrawal. (7-13-05)T

03. **Letters of Credit.** A letter of credit is an instrument executed by a bank doing business in Idaho, and made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit shall be subject to the following conditions: (7-13-05)T

a. All credits shall be irrevocable and prepared in a format prescribed by the director; (7-13-05)T

b. All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho; and (7-13-05)T

c. The account party on all credits must be identical to the entity identified in the reclamation plan or in the permanent closure plan and cyanidation facility permit as the party obligated to complete permanent closure. (7-13-05)T

**04. Blanket Bond.** Where an operator is involved in multiple surface mining operations or cyanidation facility operations permitted by the state, the director may accept a blanket bond in lieu of separate bonds under the approved plans. The amount of such bond shall comply with the provisions of Section 120 or Section 121, and shall be equal to the total of the requirements of the separate bonds being combined into a single bond. The bonded principal shall be liable for an amount no more than the bond filed for completion of reclamation activities or permanent closure activities if the department takes action against the bond pursuant to Section 47-1513, Idaho Code and Subsection 122.08 of these rules. (7-13-05)T

**05. Notice of Cancellation.** Any surety company cancelling a bond shall give the department at least ninety (90) days notice prior to cancellation. The director shall not release a surety from liability under an existing bond until the operator, within thirty (30) days following written notice of cancellation by the director or prior to the effective date of cancellation of the original bond, whichever is later, has submitted to the director an acceptable replacement bond or reclaimed the site, in accordance with Section 47-1512(f), Idaho Code. Replacement bonds shall cover any liability accrued against the bonded principal for reclamation of affected lands or permanent closure of a cyanidation facility covered by the previous bond. (7-13-05)T

**06. Revocation of Surety License.** If a surety's Idaho business license is suspended or revoked, the operator shall within thirty (30) days after notice from the director find a substitute surety licensed to do business in Idaho. If the operator fails to secure such substitute surety, the director may issue a cease-and-desist order and seek injunctive relief to stop surface mining or cyanidation facility operations until a substitution has been made. (7-13-05)T

**123. FORFEITURE OF BOND.**

A bond may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation in accord with the approved reclamation plan or has not conducted permanent closure in accord with the permanent closure plan and the applicable requirements of these rules. (7-13-05)T

~~124~~124. -- 129. (RESERVED).

**130. TRANSFER OF APPROVED PLANS.**

**01. Reclamation Plans.** A surface mining reclamation plan may be transferred from one (1) operator to another after the department's approval. To complete a transfer, the new applicant must file a notarized assumption of reclamation plan form as prescribed by the department. The new operator then shall be responsible for the past operator's obligations under the ~~##~~ chapter, these rules, and the reclamation plan. When a replacement bond is submitted relative to an approved surface mining reclamation plan, the following rider must be filed with the department as part of the replacement bond before the existing bond will be released: (Surety company or principal) understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with surface mining reclamation plan No., both prior and subsequent to the date of this rider. (7-13-05)T

**02. Permanent Closure Plans.** An approved permanent closure plan permit may be transferred to a new operator if he provides written notice to the director that includes a specific date for transfer of permanent closure responsibility, coverage, and liability between the old and new operators, no later than ten (10) days after the date of closure. An operator shall be required to provide such notice at the same time he provides notice to the DEQ as required IDAPA 58.01.03, "Rules for Ore Processing by Cyanidation". To complete a transfer the new applicant must: (7-13-05)T

**a.** File a notarized assumption of permanent closure plan form as prescribed by the department; and (7-13-05)T

**b.** File a replacement permanent closure bond on a form approved by the department with the rider required under Subsection 130.01. (7-13-05)T

(BREAK IN CONTINUITY OF SECTIONS)

150. TERMINATION OF A PLAN.

**01. Termination.** A reclamation plan shall terminate upon request of the operator, upon completion of all reclamation activity to the standards specified in the plan, and final inspection and approval by the director. Upon termination, the director will release the remaining bond, notify the operator, and any authority to operate under the plan shall terminate. ~~(11-1-89)~~(7-13-05)T

**02. Terminate a Permanent Closure Plan.** The director shall terminate a permanent closure plan upon request of the operator, provided all the provisions and objectives of the permanent closure plan have been met, as determined by the director under Sections 111 and 112 of these rules. Upon a determination that permanent closure has been completed in accordance with the approved permanent closure plan and upon consultation with the DEQ that the operator's request to terminate a plan should be approved, the director will notify the operator that any authority to continue cyanidation operations shall cease and he will release the balance of the permanent closure bond in accordance with Subsection 121.06. (7-13-05)T

151. -- 159. (RESERVED).

160. ENFORCEMENT AND FAILURE TO COMPLY.

**01. Right of Inspection.** Authorized officers of the Department of Lands, upon presentation of appropriate credentials, shall have the right to enter upon lands affected or proposed to be affected by exploration or surface mining, or cyanidation facility operations to determine compliance with these rules. Inspections shall be conducted at reasonable times in the presence of the operator or his authorized employee or representative. The operator shall make such a person available for the purpose of inspection. This rule shall not prevent the department from making an inspection of the site if the operator fails to make a representative available on request. ~~(11-1-89)~~(7-13-05)T

**02. Bond Forfeiture.** Upon request of the director, the attorney general may institute proceedings to have the bond ~~of an operator for reclamation or permanent closure~~ forfeited ~~a~~ for violation of an order entered pursuant to ~~Section 003~~ the chapter and these rules. ~~(11-1-89)~~(7-13-05)T

**03. Satisfaction of Obligations.** The forfeiture of a reclamation bond shall fully satisfy all obligations of the operator to reclaim affected lands except as provided in Subsection 160.05. (11-1-89)

**04. Civil Penalty.** If the violation is committed by an unbonded operator, or an operator who violates these rules by performing an act which is not included the approved reclamation plan and is not subsequently approved by the department, or an approved permanent closure plan the operator shall be subject to a civil penalty as provided in Section 47-1513(c), Idaho Code. The amount of such a penalty shall be the anticipated cost of reasonable reclamation of affected lands or to complete permanent closure of a cyanidation facility as determined by the director. ~~(11-1-89)~~(7-13-05)T

**05. Injunctive Procedures.** (11-1-89)

**a.** The director may seek injunctive relief, as provided by Section 47-1513, Idaho Code, against any operator who is conducting surface mining or exploration operations without having a required reclamation bond or an approved reclamation plan, or a required permanent closure bond or an approved permanent closure plan. The director may proceed by legal action to recover the anticipated cost of performing the reclamation activities or permanent closure activities required by the Surface Mining Act if the operator has no bond on file to cover this cost. ~~(11-1-89)~~(7-13-05)T

**b.** The director may seek injunctive relief to enjoin a surface mining operation or a cyanidation facility operation for the operator's violation of the terms of an existing approved plan and if immediate and irreparable injury, loss, or damage to the state may be expected to occur. ~~(11-1-89)~~(7-13-05)T



c. The director shall request the court to terminate any injunction when he determines that all conditions, practices, or violations listed in the order have been abated. Termination shall not affect the right of the department to pursue civil penalties for these violations in accordance with Subsections 160.06 and 160.07. (11-1-89)

**06. Civil Penalty.** (11-1-89)

a. Following notice to an operator of noncompliance in accord with Section 003, in addition to the penalty established in Subsection 160.04, any operator: (1) who violates any of the provisions of the ~~##~~ chapter or these rules, or; (2) who fails to perform duties imposed by these provisions, or; (3) who violates any order pursuant to the provisions of these rules, shall be liable to a civil penalty of not less than five hundred (\$500) or more than two thousand five hundred (\$2,500) for each day a violation continues after notice from the director that such violation has occurred. In addition, the director may seek injunctive relief against the operator to enjoin the operator from continuing such violation. ~~(11-1-89)~~ (7-13-05)T

b. **Willful Violation.** Any person who willfully and knowingly falsifies any records, plans, information, or other data required by these rules, or willfully fails, neglects, or refuses to comply with any of the provisions of these rules, shall be guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000) or imprisonment, not to exceed one (1) year, or both. (11-1-89)

**07. Procedure for Appeals.** (11-1-89)

a. Any operator not satisfied with any final order of the board regarding these rules, may, within sixty (60) days after receiving the order, appeal to the district court of the state of Idaho for the county wherein the operator resides or has a place of business, or where the land affected by the order is located. The appeal shall be initiated by filing with the clerk of such court two (2) copies of the notice of appeal, together with two (2) copies of the complaint against the board. The complaint shall describe the prior proceedings before the board, director, or hearing officer and shall state the grounds upon which the operator believes he is entitled to relief. (11-1-89)

b. A copy of the operator's summons and complaint shall be delivered to the attorney general or his or her authorized representative. Upon receiving a notice of appeal and complaint, the board shall prepare, certify, and file in said court, a true copy of any decision, findings of fact, or conclusions of law, or order, together with any pleading upon which the case was heard and submitted to the board, director, or hearing officer. The board shall, upon order of the court, provide transcripts of any record, including all exhibits and testimony, of any proceedings in the matter before the board or any of its subordinates. Such suit in the district court shall be a trial de novo and shall proceed in all respects like other civil suits. As such, this includes, but is not limited to, the rights of appeal to the Supreme Court of the state of Idaho. (11-1-89)

c. When the director or the board finds that justice so requires, it may postpone the effective date of a final order pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings. (11-1-89)

d. Notwithstanding any other provisions of these rules concerning administrative or judicial proceedings, whenever the board determines that an operator has not complied with the provisions of these rules, the board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides. The board may request the court to issue an appropriate order to remedy any alleged violation. The right to appeal to the Supreme Court of the state of Idaho shall be available as in other civil suits. (11-1-89)

**(BREAK IN CONTINUITY OF SECTIONS)**

**190. DEPOSIT OF FORFEITURES AND DAMAGES.**

All penalties, forfeitures, and civil damages collected ~~under the provisions of these rules~~ pursuant to the chapter, shall

be deposited with the state treasurer in:

(7-13-05)T

**01.** ~~a special~~ **Mine Reclamation Fund.** The surface mine reclamation fund to be used by the director for surface-mined land reclamation purposes. ~~(11-1-89)~~(7-13-05)T

**02.** **Cyanidation Facility Closure Fund.** The cyanidation facility closure fund to be used by the director to complete permanent closure activities and to administer the permanent closure provisions of the chapter. (7-13-05)T

**191. -- 199. (RESERVED).**

**200. COMPLIANCE OF EXISTING RECLAMATION PLANS.**

These rules, upon their adoption, shall apply as appropriate to all existing surface mining operations, but shall not affect the validity or modify the duties, terms, or conditions of any existing approved reclamation plan or impose any additional obligations with respect to reclamation upon any operator conducting surface mining operations pursuant to a reclamation plan approved prior to adoption of these rules unless amended under Section 090.

~~(7-1-98)~~(7-13-05)T

## IDAPA 21 - DIVISION OF VETERANS SERVICES

### 21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 65-202, 65-204, And 66-907, 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 September 21, 2005.

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:

Currently, Division rules allow residents to possess certain types of knives. This rule change will eliminate the possession of any weapons.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joseph S. Bleymaier, 208-334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 4th day of August, 2005.

Joseph S. Bleymaier  
Division Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
(208) 334-3513  
Fax (208)334-2627

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0101-0501

**004. INCORPORATION BY REFERENCE.**

IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure," incorporates by reference 5 U.S.C. Section 2108 (1) (a), (b) and (c) (~~June 13, 1954~~ October 31, 1998). Electronic copies are available at [uscdo.house.gov/uscaddr.htm](http://uscdo.house.gov/uscaddr.htm). Printed copies are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954. ~~(5-3-03)~~(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. WEAPONS.**

Weapons including, but not limited to, firearms, ammunition, straight razors, and knives ~~with two (2) edged blades or blades longer than three (3) inches~~ are not allowed. ~~(3-30-01)~~(\_\_\_\_\_)

**IDAPA 21 - DIVISION OF VETERANS SERVICES**  
**21.01.02 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS**  
**DOCKET NO. 21-0102-0501**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 65-203, 65-204, 65-207, 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 September 21, 2005.

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: Change 21.01.02.002 to reflect that the Division does not have written interpretations of its rules.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joseph S. Bleymaier, 208-334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 4th day of August, 2005.

Joseph S. Bleymaier  
Division Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
(208) 334-3513, Fax (208)334-2627

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0102-0501**

**002. WRITTEN INTERPRETATIONS.**

*In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Division of Veterans Services' office. There are no written interpretations for this chapter.* (4-6-05)(\_\_\_\_)

**IDAPA 21 - DIVISION OF VETERANS SERVICES**

**21.01.03 - RULES GOVERNING MEDICAID QUALIFIED UNITS  
IN IDAHO STATE VETERANS HOMES**

**DOCKET NO. 21-0103-0501**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 65-202, 65-204, 65-907, 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 September 21, 2005.

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:

Change in Chapter 3 reflects Medicare certification in addition to Medicaid and makes all related changes.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joseph S. Bleymaier, 208-334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 4th day of August, 2005.

Joseph S. Bleymaier  
Division Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
(208) 334-3513  
Fax (208)334-2627

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0103-0501**

**001. TITLE AND SCOPE.**

**01. Title.** These Rules shall be cited as IDAPA 21.01.03, "Rules Governing Medicare and Medicaid Qualified Units in Idaho State Veterans Homes". ~~(3-30-01)~~( )

**02. Scope.** The provisions of this Chapter add to, but do not replace other rules governing the Idaho State Veterans Homes. These rules are intended to add those provisions necessary and advisable to facilitate Medicare and Medicaid eligibility for the ~~Veterans~~ Homes. To the extent there is a conflict between these rules and other rules governing the ~~Veterans~~ Homes, these rules supersede and have priority over such other rules. ~~(3-30-01)~~( )

**03. Relationship to Policies and Procedures.** The policies and procedures found within the Division of Veterans Services' policy and procedure manual are intended for the uniform guidance of employees and management of the Veterans Homes and to provide certain minimum standards of conduct by employees. However, such policies and procedures are neither contractual in nature nor, unlike these rules, do they have the force and effect of law. Management personnel, within the scope of their duties and employment, may deviate from the division's policies and procedures manual when the health and safety of Veterans Home residents, or special or unique circumstances, reasonably warrant such deviation. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. POLICY.**

While those who are residents of the Veterans Homes on June 30, 2000, and before, are strongly encouraged to apply for Medicaid benefits, when such benefits may be available to them, it is the policy of the Division of Veterans Services, that participation in the Medicaid program shall be voluntary. Unless required by the legislature, no resident, who was continually a resident on and ~~after~~ before June 30, 2000, shall be required, against ~~their~~ the resident's will, to participate in the Medicaid program. ~~(3-30-01)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**008. MEDICARE ELIGIBILITY.**

If eligible for Medicare, an applicant or resident must elect to participate, unless participation is waived by the Home Administrator. ( )

~~008.~~ 009. (RESERVED).

## IDAPA 21 - DIVISION OF VETERANS SERVICES

### 21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

#### DOCKET NO. 21-0104-0501 (FEE RULE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 65-202, 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 September 21, 2005.

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:

Change in Chapter 4 allows the State Veterans Cemetery to charge an additional \$300 for interments in areas of the cemetery where there are no pre-placed crypts.

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

The Department of Veterans Affairs burial benefit is \$300 but it only covers interments in areas of the cemetery where there are pre-placed crypts. If a veteran or spouse elects to be interred in an area where there are no pre-placed crypts, an additional fee of \$300 is needed to place a crypt in that area.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joseph S. Bleymaier, 208-334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 4th day of August, 2005.

Joseph S. Bleymaier  
Division Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
(208) 334-3513  
Fax (208)334-2627

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0104-0501



**004. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** IDAPA 21.01.04 incorporates by reference the following: (5-3-03)

**a.** The full text of 38 C.F.R. Section 1.620, dated July 1, 2001. (5-3-03)

**b.** 38 U.S.C.A. Section 2402, ~~1991 main volume, 2002 pocket part, Code of Federal Regulations, published by the Office of the Federal Register National Archives and Records Administration (2004 and Supp. 2004).~~ (5-3-03)( )

**02. Document Availability.** Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402-0001. (5-3-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**024. FEES FOR INTERMENT, DISINTERMENT, AND REINTERMENT.**

The administrator shall charge the following fees: (3-16-04)

**01. Interment.**

**a.** The administrator shall charge a fee of three hundred dollars (\$300) for opening and closing an interment site containing a pre-placed crypt. The administrator shall accept, as full payment the amount of reimbursement by the USDVA to the division for opening and closing an interment site containing a pre-placed crypt for a qualified veteran. (3-16-04)( )

**b.** In addition to the fee charged under Paragraph 024.01.a. the administrator shall charge a fee of three hundred dollars (\$300) for preparation of an interment site not containing a pre-placed crypt. ( )

**02. Disinterment.** The administrator shall charge a fee of three hundred dollars (\$300) for opening an interment site. The expenses of removal, transportation and reinterment of remains, and the expenses of removal, transportation and reinstallation of the grave marker, if any, shall be paid by the applicant for disinterment. (3-16-04)

**03. Reinterment.** The administrator shall charge a fee of three hundred dollars (\$300) for reinterment. The expenses of reinterment of remains and reinstallation of the grave marker, if any, shall be paid by the applicant for reinterment. (3-16-04)

## **IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD**

### **25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**

#### **DOCKET NO. 25-0101-0501**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 36-2107(b) and (d), 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 September 21, 2005.

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

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

The changes in Rule 002 provide that an "incidental" amendment would be a "minor" amendment; deletes the definition of "nonuse" because it is defined elsewhere; adds selling lifetime hunts to the definition of "unethical/unprofessional conduct"; and deletes the definition of "zero use" because "nonuse" is already defined elsewhere. The changes in Rule 007 provide that temporary employment or short term loan or transfer shall not be on a routine basis, the employing outfitter or authorized agent shall keep written documentation of the loan or transfer, and that repeated transfers or loans of guides should be done by using the amendment process. The word "guide" is changed to "individual" in this rule because these individuals are not licensed guides. The changes in Rule 015 provide that instead of a late fee, a penalty fee shall be paid before the license is issued, that an outfitter shall pay an annual license fee for each license they hold and, if required, to submit use reports for each license, and be able to differentiate between each business and its clients. The change in Rule 019 deletes the requirement that the bond name the business and the designated agent since the statute only requires proof of a bond. The change in Rule 021 provides that the outfitter application shall include the name of the business entity registered as a "d.b.a." or the name registered with the Secretary of State. The change in Rule 022 provides that the outfitter shall operate under the name(s) licensed by the Board and under no other names and that certain business entities must have a Designated Agent in order to be licensed and to operate. The change in Rule 024 deletes the current intent and descriptions of nonuse and waiver and provides for new definitions for these terms as well as definitions of "Zero Use," "Negligible Use," the process for finding non-use and what acceptable use is. It also provides for required records, for non-use during a sale and for waiver of compliance. The change in Rule 030 clarifies that outfitter waiting lists apply to all licensed rivers, lakes and reservoirs in Rule 59 and for each specific Idaho Department of Fish and Game unit. They also clarify the directions the Board may take if there is no waiting list for an operating area and the application process and fee for each area to be considered, and that a name shall be kept on a waiting list for a period of two years or until December 31 of the second year the name is placed on the list. Criteria used in making selections shall include those used to consider new outfitter applications or license amendments. Rule 034 provides that a licensee will produce upon request, a valid first aid card while guiding. It also provides for gender-neutral wording. The changes in Rule 044 provide that the existing rule be replaced in its entirety with new language that reflects changes in this rapidly changing industry. Rule 45 is deleted due to language being consolidated in rule 44. The changes in Rule 054 correct the spelling of anadromous and makes Clearwater River stickers on guide boats permanent. Changes in rule 59 clarify the boundaries of the CL1 Section of the Clearwater River shall be from Lowell to the Upper Bridge at Kooskia, on CL2 at the Upper Bridge at Kooskia to the Bridge at Orofino, and on CL3 from the Orofino Bridge to the Railroad Bridge at Lewiston. On this section each outfitter may use at any one time a maximum of (a) three (3) power boats or three float boats or combination thereof if licensed for both fishing, and (b) five (5) boats for other boating activities per license. The Coeur d'Alene river has been added with four sections, CDNF which is the Headwaters of the North Fork of the Coeur d'Alene River, CD1 which is the Coeur d'Alene River from Devil's Elbow to the South Fork confluence and CD2, the South Fork confluence downstream to Cataldo Mission Boat Ramp, and CD3, the Lateral (Coeur d'Alene chain) Lakes connected by the Coeur d'Alene River from the Cataldo Mission Boat Ramp to the Highway 97 Bridge. Subsection 02 of this Rule includes the Salmon River through the Snake River and Section 03 of this Rule includes the Snake River through the Teton River.

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

in the rulemaking are implementation of existing fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted prior to submission involving the Idaho Outfitter and Guides Association. Input was taken from the industry in June of 2004 through a postcard notification and email posting of the rules. Meetings were held Dec. 9, 2004 with the IOGA Governmental Affairs Committee, Jan. 18, 2005 with Representatives of the IOGA Executive Committee, April 27, 2005 IOGA Executive Director Appeared before the Board, June 2 2005, a meeting was held with the Governmental Affairs Committee, June 29, 2005. Mr. Simonds appeared before the Board during a conference call. An additional post card notification and email posting was conducted in August 2005 and the public will have the opportunity to comment on the rules as provided hereunder and may request a hearing as provided by Section 67-5222, Idaho Code.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 19th day of July, 2005.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-0501**

**002. DEFINITIONS.**

The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

**01. Act.** Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

**02. Administrative Noncompliance.** (3-10-03)

**a.** Two (2) or more repeated failures to apply for license renewal in a timely manner; or (3-10-03)

**b.** Two (2) or more repeated failures to file a complete application pursuant to Section 36-2113(a)(1), Idaho Code. (3-10-03)

**03. Authorized Person.** An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer. (4-1-92)

**04. Board.** The Idaho Outfitters and Guides Licensing Board. (4-1-92)

**05. Board Meeting.** The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)

**06. Booking Agent.** Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

**07. Compensation.** The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

**08. Completed Application.** An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)

**09. Consideration.** The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)

**10. Desert.** A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

**11. Designated Agent.** An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. ~~The name of each designated agent employed by an outfitter shall appear on the outfitter's bond.~~ A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent). ~~(4-1-92)~~(\_\_\_\_)

**12. Drift Boats.** Shall be substituted for and have the same meaning as "float boats" defined below. (4-1-92)

**13. Enforcement Agent.** An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)

**14. Facilities and Services.** The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. (4-1-92)

**15. First Aid Card.** A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)

**16. Fishing.** Fishing activities on those waters and for those species described in the rules of the Idaho Department of Fish and Game, IDAPA 13.01.11, "Rules Governing Fish," general fishing seasons and any anadromous fishing rules; for purposes of the "Act", fishing is defined as follows: (4-1-92)

**a.** Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)

**b.** Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)

**c.** Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures,

as defined by Idaho Department of Fish and Game rules. (4-1-92)

**d.** Incidental fishing means fishing conducted as a minor activity. (4-1-92)

**e.** Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)

**f.** Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)

**17. Float Boats.** Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)

**18. Guide.** An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)

**19. Guide License.** A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)

**20. Hazardous Excursions.** Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment which may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, and motored and non-motored cycling, but does not include wagon rides or sleigh rides. (3-10-03)

**21. He/His/Him.** Shall mean either the male or female gender. (4-1-92)

**22. Hunting.** The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (3-30-01)

**23. Incidental Activity.** Shall be and is the same as a minor activity. (4-1-92)

**24. Incidental Minor Amendment.** All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (~~4-1-92~~)(\_\_\_\_)

**25. Investigator.** An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer. (4-1-92)

**26. Major Activity.** A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)

**27. Major Amendment.** All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)

**28. Minor Activity.** A licensed activity the nature of which must be carried out in conjunction with a major activity, but is not the primary purpose of the excursion. (3-15-02)

**29. Mountainous.** A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steep-sided land masses of impressive size and height. (4-1-92)

**30. New Opportunity.** A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)

**31. Nonresident.** An individual, corporation, firm, or partnership who is not a resident of the state of Idaho. (See "Resident"). (4-1-92)

~~**32. Nonuse.** Inactivity, such as incidental activity only, or an outfitter's making zero (0) use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero (0) use," and Subsection 024.01. (3-23-98)~~

~~**32. Operating Area.** The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)~~

**343. Operating Plan.** A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)

**354. Outfitter.** An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)

~~**365. Outfitter License.** A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Section 36-2102(b), Idaho Code. The conduct of an outfitted operation on any land(s) is not authorized unless signed permission, a permit, or a lease is obtained from the land owner(s), or their agent(s), and filed with the Board. (3-15-02)~~

**376. Out-of-Pocket Costs.** The direct costs attributable to a recreational activity. Such direct costs shall not include: (4-1-92)

**a.** Compensation for either sponsors or participants; (4-1-92)

**b.** Amortization or depreciation of debt or equipment; or (4-1-92)

**c.** Costs of non-expendable supplies. (4-1-92)

**387. Power Boats.** All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01 and 059.02. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steering. (4-1-92)

**398. Relinquishment of License Privileges.** The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03). (3-23-98)

~~**4039. Resident.** An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)~~

~~**410. Rules.** The Rules of the Board. (4-1-92)~~

~~**421. Stay of Board Action.** An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)~~

**432. Third Party Agreement.** The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)

**443. Trainee.** A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (5-1-95)

**454. Boat Trainee Under Supervision.** A boat trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored. (3-10-03)

**465. Unethical/Unprofessional Conduct.** Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: (3-30-01)

- a. An outfitter employing an unlicensed guide; (3-30-01)
- b. Providing false, fraudulent or misleading information to the Board; (3-30-01)
- c. Failure to obey an order of the Board; (3-30-01)
- d. Failure to provide services as advertised or contracted; (3-30-01)
- e. Harassment of the public in their use of Idaho's outdoor recreational opportunities; (3-30-01)
- f. Violation of state or federal fish and game laws; (3-30-01)
- g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; (3-30-01)
- h. Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; (3-30-01)
- i. Failure to pay a supplier of goods or services to the outfitter business; (3-15-02)
- j. Failure to pay state taxes; or (3-15-02)
- k. Operating in a manner which endangers the health, safety, or welfare of the public. (3-30-01)
- l. Selling lifetime excursions, lifetime hunts, or selling of outfitted activities to an individual for the life of that individual and collecting fees accordingly. ( )

**476. Validated Training Form.** An approved form bearing the "Great Seal of the State of Idaho" and the official stamp of the Board affixed thereon. (4-1-92)

**487. Watercraft.** A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-1-92)

~~**49. Zero Use.** No or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or federal agency that limit the ability of the outfitter to seek and accommodate clientele. (4-1-92)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**007. LICENSE RESTRICTIONS.**

A license issued by the Board shall, for an outfitter license, specify the operating area and all activities for which the outfitter is licensed; for a guide license, specify all activities for which a guide is qualified to guide and shall indicate the outfitter(s) who signed the guide license application as the employing outfitter(s); and identify such limitation(s) or qualification(s) as may be imposed by the Board in issue of said license. (10-15-88)

**01. Restriction.** An outfitter shall not conduct any activities not specified on the outfitter license, nor operate in any area(s), nor on any water(s) for which he is not licensed. (10-15-88)

**02. Qualified.** All outfitters must be qualified to guide or have in their employment a licensed guide or guides who are qualified for the activity(ies) for which the outfitter is licensed. (10-15-88)

**03. Review.** An outfitter's qualifications to guide shall be reviewed by the Board, and, if approved, he will be issued both an outfitter and guide license at no additional fee. (10-15-88)

**04. Guide Restrictions.** A guide shall not guide for any activity(ies), or on any water, or in any operating area for which his employing outfitter is not licensed. (5-1-95)

**05. Qualifications.** The qualification(s) of an outfitter or guide licensee shall be determined in accordance with Idaho Code, Title 36, Chapter 21, and Rules promulgated thereunder. (10-15-88)

**06. Limitation.** A limitation in number of clientele served, operating area, or any other criteria affecting the safety, health, and welfare, of the public or viability of the fish, and wildlife, or other natural resources shall be imposed in licensing where such limitation is deemed necessary by the Board in accordance with Idaho Code, Title 36, Chapter 21, and the Idaho Outfitters and Guides Licensing Board Rules. (10-15-88)

**07. Notification.** An outfitter shall notify the Board: (10-15-88)

**a.** When an outfitter permanently terminates the services of a licensed guide during the season, the Board shall be notified within fifteen (15) days, stating the date of termination. (10-15-88)

**b.** When an outfitter employs a licensed guide who is not currently licensed under his outfitter's license, said outfitter shall notify the Board within fifteen (15) days. ~~(10-15-88)~~(\_\_\_\_)

**c.** The above requirements shall not apply in the case of a temporary employment, or short term "loan" or transfer (less than fifteen (15) days duration and not on a routine basis) of a guide between outfitters, or termination of employment of a guide upon completion of the seasonal activity for which the guide was employed. When there is a loan or transfer, the employing outfitter or authorized agent shall keep written documentation of the loan or transfer and dates and times. Repeated transfers or loans of guides are required to be done by using the amendment process. ~~(10-15-88)~~(\_\_\_\_)

**d.** In addition, an outfitter may employ an individual to guide for ten (10) days or for one (1) excursion, whichever is less, using a ~~one-time temporary guide license on a form~~ letter of authorization provided by the Board. With the exception of a current first-aid card, the ~~guide individual~~ shall be otherwise fully qualified to provide guiding services in the area and for the activity guided. The employing outfitter shall certify to the Board prior to employment that the ~~guide individual~~ is qualified and may only use one (1) ~~guide individual~~ in this manner per license year. ~~(3-23-98)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

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



- 01. Annual Dates.** (3-20-04)
- a.** All outfitter and designated license applications must be completed and received by the Board by January 31 of each year. (3-20-04)
- b.** All outfitter applications and designated agent applications received by the Board after January 31 that are not complete will be subject to special processing fees. (3-20-04)
- c.** The last day of the license year for all licenses is March 31 of each year. (3-20-04)
- d.** Guide license applications may be submitted at any time during the year. (3-20-04)
- 02. Outfitter and Designated Agent ~~Late~~ Penalty Fee.** When a completed renewal application is filed with the Board after the last day of the license year, the following penalty shall apply: (~~3-20-04~~)(\_\_\_\_)
- a.** A completed application received by the Board the last day of the license year - no ~~late~~ penalty fee shall apply. (~~3-10-03~~)(\_\_\_\_)
- b.** A completed application received by the Board after the last day of the license year - a ~~fifty dollar (\$50) late~~ penalty fee shall be paid before the license is issued. (~~3-10-03~~)(\_\_\_\_)
- 03. License Lapsed and Relinquished.** A completed outfitter application received by the Board after ninety (90) days after the last day of the license year will not be accepted for licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not received by the Board by ninety (90) days after the last day of the license year, the license is relinquished. (3-10-03)
- 04. Refund of Unused One Time Application Fees.** All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (3-19-99)
- 05. Multiple Year Licenses.** (3-20-04)
- a.** Beginning in license year 2004, outfitter and designated agent licenses may be issued for a one (1) year or three (3) year period. All new applicants must be licensed for two (2) years before the applicant may apply for a three (3) year license. (3-20-04)
- b.** License fees shall be prorated based on the number of years for which the applicant is licensed. The multiyear license fee may be transferred to the bona fide purchaser of an outfitter business. Bona fide purchasers of an outfitter business will be credited for annual license fees for prorated years remaining with a business at the time of the purchase. (3-20-04)
- c.** The multiple year fee must be paid at the time of renewal and prior to the beginning of the license period. This does not relieve a licensed outfitter from submitting annual reports and use reports, and annual bonding and insurance requirements. (3-20-04)
- d.** There shall be no reimbursement of fees should the license become revoked or relinquished. (3-20-04)
- e.** Outfitters must submit renewal applications no later than January 31 prior to the subsequent license period. (3-20-04)
- 06. Payment.** (\_\_\_\_)
- a.** Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, outfitter's company check or use of outfitter and designated agent credit cards. (~~3-20-04~~)(\_\_\_\_)
- b.** The applicant must pay an annual license fee for each license issued, submit annual use reports for

each license, and be able to differentiate between each business and its clients. ( )

**c.** Designated Agents must pay an annual license fee for each license issued. ( )

**d.** Guides must pay an annual license fee for a license but that license can be amended to include more than one (1) outfitter. ( )

**07. Expedited or Emergency Application Fees.** 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: (3-16-04)

**a.** One hundred fifty dollars (\$150) for an outfitter license; (3-16-04)

**b.** Seventy-five dollars (\$75) for a designated agent license; and (3-16-04)

**c.** Fifty dollars (\$50) for a guide license. (3-16-04)

**08. Resubmittal, Exceptional or Special Processing of Application.** The fee for resubmittal, exceptional or special processing of an application that is incomplete, or for other reasons for which the Board is otherwise unable to process the application shall be: (3-16-04)

**a.** One hundred dollars (\$100) for an outfitter license; (3-16-04)

**b.** Seventy-five dollars (\$75) for a designated license; (3-16-04)

**c.** Fifty dollars (\$50) for a guide license; and (3-16-04)

**d.** Five dollars (\$5) for allocation fee recovery. (3-16-04)

**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. (3-16-04)

**a.** Twenty dollars (\$20) for an outfitter license; (3-16-04)

**b.** Seven dollars (\$7) for a designated agent license; and (3-16-04)

**c.** Five dollars and twenty-five cents (\$5.25) for a guide license. (3-16-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**019. DESIGNATED AGENT.**

When the applicant is a corporation, firm, partnership, or other organization or combination thereof, a supplemental form shall be completed and it shall designate at least one (1) designated agent who is a qualified outfitter who shall be responsible for the outfitting business. The outfitter business and designated agent(s) must each make application and obtain licenses. ~~One (1) Proof of a bond naming the business and the designated agent(s)~~ must be submitted to the Board to complete a renewal application. Any new applicant who has been approved by the Board must submit a bond prior to the issuance of a license. (~~10-15-88~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**021. EVALUATION OF THE OUTFITTER APPLICATION.**

In evaluating an outfitter application for approval or denial, the Board shall consider, but not be limited to, the following criteria: (3-1-86)

**01. Compliance.** Applicant compliance with qualification criteria as prescribed in the Act and the Rules. (3-1-86)

**02. Need for Services.** The public need for the proposed service(s) in the area requested on the application. (3-1-86)

**03. Other.** The extent of the applicant's experience, knowledge, and ability in the area and in the conduct of activities requested. (3-1-86)

**04. Equipment and Resources to Operate.** The applicant's qualifications by reason of equipment or resources to operate. (3-1-86)

**05. Previous Record.** The applicant's previous record. (3-1-86)

**06. Accessibility of Area.** The accessibility of the area and use by the general public, the commercial use already licensed in the area, the particular terrain, and normal weather conditions during the season of operation. (3-1-86)

**07. Area Requested.** The total amount of area requested, giving due consideration to the effect such license would have upon the environment, the amount of game available to be harvested, the probable impact on the area should additional licenses be issued, and the number of persons who can be adequately served in the area. (3-1-86)

**08. Operating Plan.** The adequacy and acceptability of the proposed operating plan. (3-1-86)

**a.** The applicant's knowledge of financial and business management needs and practices. (3-1-86)

**b.** The applicant's ability to manage and direct personnel and guests. (3-1-86)

**09. Name.** The name registered as a d.b.a. (doing business as), or the name of the business entity, registered with the Secretary of State. ( )

**022. ISSUANCE OF AN OUTFITTER LICENSE.**

When the Board issues an outfitter license, said license shall specify the activity(ies) for which the applicant is licensed, designate specific operating area(s) for each activity, and be based on an operating plan acceptable to the Board. In order to safeguard the health, safety, and welfare of the public and for the conservation of wildlife resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. An outfitter may not operate in an area for which there is no landowner or land manager ~~signoff~~ statement where applicable. The outfitter shall operate only under the names licensed by the Board and under no other names. An outfitter business that is a corporation, partnership, LLC or LLP must have a Designated Agent in order to be licensed and to operate.

(3-15-02)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**024. STANDARDS FOR NON-USE.**

*Prior to the renewal of a license, the Board shall review the outfitter's use reports for the preceding three (3) years to determine whether the operation falls within a nonuse category as defined in Subsection 024.01. If the outfitter falls within a nonuse category, a "notice of nonuse" may be issued to the outfitter. The notice shall include the activity(ies) and operating area(s) deemed to be in nonuse, an explanation of how the determination was made, and the hearing date on which the Board will consider whether the license or any part thereof should not be renewed because of nonuse. An outfitter license is a publicly issued license enabling the holder to provide outfitted and guided services to*

the public. Because many outfitters operate on public lands and waters, there is an expectation that these services be provided adequately and that the public's natural resources are utilized appropriately. It is important to determine whether the outfitter is providing, or attempting to provide, the public service intended. It is recognized that there are various factors outside the control of an outfitter that may affect an outfitter's business operation. This rule establishes the process used by the Board to monitor the use of outfitter assigned activities and operating areas, to determine the causes for outfitter inactivity, and to fairly administer identified remedies when this service is inadequately provided or the resource is inadequately used. The Board will prioritize the need for action on non-use based on, among other factors, interest or demand for the particular activity or area. (3-1-86)( )

**01. Nonuse.** ~~For the purpose of this section shall mean zero (0) use of an outfitter's licensed activity(ies) for any two (2) of the three (3) preceding years as reported by the licensee in his annual report to the Board.~~ **Requirement.** The Board may annually review the outfitter's use reports for the preceding three (3) years to determine whether any licensed activity or operating area fall within non-use. If the outfitter falls within non-use, a "notice of non-use" may be issued to the outfitter. (3-1-86)

**02. Waiver.** ~~Upon a showing of good cause, the Board may waive compliance with the nonuse standard.~~  
**Definitions.** (3-1-86)( )

**a. Non-use.** When an outfitter is making zero (0) or negligible use of major licensed activities for any two (2) of the three (3) preceding years unless the lack of use is due to an act of nature or because of state or federal agency restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients;( )

**b. Zero (0) use.** No recorded use by an outfitter of their licensed area or activities; ( )

**c. Negligible use.** An unreasonable lack of use as determined by the Board for any one (1) or more of the particular activities in the assigned operating area. Typically, use may be determined by comparison of use levels for the same activity(s) in similar operating areas. Other factors in determining use are found in Subsection 024.04. ( )

**03. Process.** ( )

**a. Outfitters are required to submit use reports each year during the license renewal.** ( )

**b. A "notice of non-use" may be issued to an outfitter who appears to be in non-use. The notice shall include the activity(s) and operating area(s) that appear to be in non-use and an explanation of how the determination was made. The outfitter will be given the opportunity to correct the use records by supplying staff with evidence of use, prior to a hearing being scheduled. If adequate proof of use is not provided, the matter will be scheduled for a hearing.** ( )

**c. When it is determined by the Board that any activity or operating area has had zero (0) use or negligible use, certain requirements may be imposed by the Board up to and including revocation of some or all of the outfitter's operating areas and activities.** ( )

**04. Examples of Acceptable Use:** ( )

**a. Paying clients participating in activities occurring within a designated operating area;** ( )

**b. Donated trips;** ( )

**c. Outfitter initiated applications for controlled hunts in their licensed operating area;** ( )

**d. Outfitter initiated applications for trophy species; and** ( )

**e. Use in conformance with a current and accepted operating plan.** ( )

**05. Required Records.** Outfitters may be required to submit client records that include the name, address, and date of activity of individual clients or groups for a period of three (3) consecutive years. ( )

**06. Non-Use During a Sale.** Board staff shall review all full or partial business sales for non-use. If it is determined a major activity or operating area has had zero (0) or negligible use, the Board may review the sale and the issuance of a license may be denied. In some instances the Board may approve the sale with notification to the buyer that use must be established within the following two (2) out of the next three (3) years or the area or activity may be removed from their license. ( )

**07. Waiver of Compliance.** The Board may waive compliance with the non-use standard upon a showing of good cause. Waivers of non-use may be issued when the lack of use is a result of an act of nature, or by state or federal agency seasonal restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients. Waivers may also be considered when personal circumstances such as illness or injury limit the ability of the outfitter to seek and accommodate clients. Non-use waivers must be applied for prior to the beginning of the license year or immediately upon the advent of extenuating circumstances. If a federal permit holder is requesting zero (0) or negligible use, the request for a waiver must be accompanied by a Land Manager's Statement. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. OUTFITTER WAITING LISTS.**

When there are more outfitter applications for ~~river operations~~ an outfitter operating area than the maximum number of licenses allowing such activity, or when an ~~outfitter applicant individual~~ wishes to be ~~licensed~~ considered in an area to which another outfitter has historically been licensed, the Board shall maintain a list of such ~~applicants individuals~~ for notification of an available opening. ~~The initial application must be complete except for bond and license fee. When, or if, an available opening does occur and public announcement is made, the Board shall use the waiting list for direct notification by mail of interested parties, and shall select a qualified candidate. Any person on the list who remains interested in obtaining a license following notification of availability must re-apply during the open period as announced by the Board in order to have his application considered. If an existing operating area (hunting, boating, or other) is relinquished by the licensee, the Board (if it deems it advisable to relicense the area) shall publicize the area's availability and accept written applications for a thirty (30) day period of time from the date of public notice from those persons wishing to be licensed to the area. The Board shall then consider the qualifications of all applicants and license the area to the candidate determined to be most qualified. Criteria to be used in making this selection shall include, but shall not be limited to, the following: If there is no waiting list for an area, the Board may proceed with the license application or may employ a competitive application process.~~ (5-1-95)( )

**01. Qualification.** ~~General outfitter qualifications as outlined in the Act and Rules.~~ **Waiting List.** The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 059 and for each specific Idaho Department of Fish and Game (IDFG) unit listed in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho". (3-1-86)( )

**02. Experience.** ~~Experience in an outfitting business.~~ **Outfitter Application or Outfitter Amendment Form.** A new outfitter application or outfitter amendment form must be completed and a partial application fee submitted for each river section, lake and reservoir and for each specific IDFG unit that the individual desires. The individual must indicate all activities for which they wish to be considered on the application form. (3-1-86)( )

**03. Business Experience.** ~~Other business experience or training.~~ **New Outfitter Waiting List Application Fee.** The Board will charge the individual wishing to be placed on a waiting list a partial application fee for each area for which they wish to be considered. (3-1-86)( )

**04. Financial Resources.** ~~Financial resources available to operate the proposed business.~~ **Length of Time Name Is on Waiting List.** A name on the waiting list shall be maintained for a period of five (5) years or until December 31 of the second year that the name is placed on the list, whichever comes first. (3-1-86)( )

**05. Equipment Resources.** ~~Equipment resources available to operate the proposed business.~~ **When**

Available Outfitting Opening Occurs. When, or if, an available opening does occur and public announcement is made, the Board shall use the waiting list for direct notification by mail of interested parties, and shall select a qualified candidate from those who apply. Any person on the list who remains interested in obtaining a license following notification of availability must re-apply by submitting all necessary forms and fees during the open period as announced by the Board in order to have his application considered. (3-1-86)(\_\_\_\_)

~~06. Adequacy. Adequacy and acceptability of the proposed operating plan for use of the requested operating area.~~ **When an Operating Area Is Relinquished by the Licensee.** If an existing operating area (hunting, boating, or other) is relinquished by the licensee, the Board (if it deems it advisable to relicense the area) shall publicize the area's availability and accept written applications for a thirty (30) day period of time from the date of public notice from those persons wishing to be licensed to the area. The Board shall then consider the qualifications of all applicants and license the area to the candidate determined to be most qualified. Criteria to be used in making this selection shall include those criteria used to consider new outfitter applications or those criteria used to consider existing outfitters who wish to amend their licenses. (3-1-86)(\_\_\_\_)

~~07. Availability. In compliance with the above criteria,~~ The Board shall determine the availability of operating areas for relicensing by the beginning of each license year. (3-1-86)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**034. GUIDE APPLICATION REQUIREMENTS - GENERAL.**

To be complete, an application for a guide license must: (4-1-92)

**01. First Aid Card.** Be accompanied by an affidavit by the employing outfitter that the applicant will have a valid first aid card ~~while guiding~~ before they are employed. (3-10-03)(\_\_\_\_)

**02. Signatures.** Have the signature of the applicant and of the licensed outfitter(s) who wishes to employ the applicant as a guide, who shall certify that the applicant: (4-1-92)

**a.** Is qualified to perform the type of guiding activity(ies) for which ~~he~~ the applicant seeks licensing; i.e., hunting, boating, skiing, or other as may be applicable. (4-1-92)(\_\_\_\_)

**b.** Has extensive, first-hand knowledge of the operating area(s) and water(s) in or on which ~~he~~ the applicant will be guiding. (4-1-92)(\_\_\_\_)

**c.** If the guide applicant is land based, ~~the guide~~ is able to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. (3-30-01)(\_\_\_\_)

**d.** Is clean and well-mannered with a desire to please those whom ~~he~~ the applicant is called upon to serve. (4-1-92)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

~~**044. CROSS COUNTRY SKI GUIDE.**~~

~~Cross-country ski guide applicants may be licensed in several ways, depending upon training, expertise, and skill levels.~~ (4-1-92)

~~**01. Apprentice Guide (Trainee).** Not qualified to guide alone, but may assist in guiding day trips under the direct leadership of a guide or lead guide, or may assist on overnight trips under the direct supervision of a lead guide only. An apprentice or trainee guide must have the same general knowledge as a ski guide, but has not passed the qualifying backcountry program in order to qualify as a guide or lead guide.~~ (4-1-92)

~~02. Guide (Associate Certified Backcountry - PSIA). Qualified only to guide day trips in non-hazardous terrain or assist in guiding day or overnight trips in hazardous terrain under the direct leadership of a lead guide. To obtain a license as a guide, the applicant shall have met all the general requirements for a guide license and must have good ability to ski, leadership qualities, knowledge of route selection, map and compass reading, emergency shelter technique and equipment including a minimum first aid kit, awareness of hypothermia and avalanche conditions, and must have passed the qualifying backcountry program to become a ski guide. (4-1-92)~~

~~03. Lead Guide (Full Certified Backcountry - PSIA). Fully qualified to guide day and overnight trips in any terrain. (4-1-92)~~

~~a. To obtain a license as a lead cross-country ski guide, the applicant shall have passed a backcountry qualifying examination and obtained full certification from a division of the Professional Ski Instructors Association (PSIA) or from an organization with similar training and examining procedures which are acceptable to the Board, or have passed a qualified program for guiding skiing that is acceptable to the Board. The Board reserves the right to investigate the training program and examining procedures of any organization whose certification is submitted as a qualification for a license. The guide must have experience guiding in areas of equivalent terrain to the operating area(s) requested. He must have also accompanied a licensed lead ski guide on a minimum of three (3) overnight tours. A log shall be submitted giving dates, miles traveled, location of trips, and shall be signed by the lead guide. All overnight ski tours shall be under the direct leadership of a licensed lead ski guide. "Direct leadership" means the licensed lead ski guide shall accompany the group for the entire tour. (4-1-92)~~

**044. SKIING, NON-HAZARDOUS AND HAZARDOUS TERRAIN OUTFITTER, DESIGNATED AGENT, SKI GUIDE AND SKI GUIDE TRAINEE.**

**01. Applications.** ( )

**a.** An outfitter, designated agent or guide must submit an outfitter or a guide application with current outfitter operating plan, if required, ski resume, avalanche training certificates, appropriate fees and proof of first aid training. ( )

**b.** The Board will then send this information to the Technical Advisory Committee (TAC) for evaluation. The TAC is a five (5) member body of qualified backcountry ski outfitters and ski guides appointed by the Executive Director and confirmed by the Board to advise the Board on non-hazardous and hazardous terrain skiing. ( )

**c.** The TAC will designate or determine the scope of the outfitting operation and whether guiding principally in non-hazardous or hazardous terrain. The TAC will then recommend to the Board whether or not the Board should license the outfitter or guide as either Level I Ski Operator (non-hazardous terrain, principally sub-alpine or skiing operations in forests) or a Level II Ski Operator (hazardous terrain with a high degree of avalanche exposure). Designated agents and guides are licensed to fill job duties of the respective outfitters based upon terrain and services of the guide rendered. ( )

**02. Designations and Qualifications for Outfitters, Designated Agents, Guides and Trainees are as Follows:** ( )

**a.** Level I ski guide (non-hazardous terrain). Is qualified to lead ski tours in the outfitter's operating area. One (1) year training as a ski guide assistant in a non-hazardous backcountry setting. Level I Ski Guides may work in hazardous terrain as a Level II Ski Guide Trainee under the supervision of a Level II Ski Guide. Level I Ski Guides are required to have: ( )

i. Standard First Aid training as per guide licensing in Idaho; ( )

ii. Level I field-based avalanche training consisting of a twenty-four (24) hour curriculum submitted and an instructor roster; ( )

iii. Knowledge of Outfitters Scope of Operation including logistics, services, terrain; and ( )

- iv. A letter of reference from the employing outfitter. ( )
- b.** Level II ski guide (hazardous terrain). Has in-depth ski guiding experience on hazardous terrain and has the following qualifications: ( )
- i. Two (2) winter seasons training with Licensed Level II Ski Outfitter or Guide or equivalent work experience with another Level II ski operation which conduct services principally in hazardous or avalanche terrain: ( )
- ii. Advanced First Aid, WFR, or EMT of a minimum of forty-eight (48) hours: ( )
- iii. Level 1 and Level II field-based avalanche training consisting of at least forty-eight (48) hours curriculum with a submitted instructor roster: ( )
- iv. Knowledge of the Outfitters Scope of Operation including logistics, services, terrain; and ( )
- v. A letter of reference from the employing outfitter. ( )
- 03. Outfitters. Outfitters who conduct winter ski-based operations may be designated as:** ( )
- a.** Level I: self-propelled, with snowcat, or with snowmobile assisted including day skiing, hut skiing in non-hazardous terrain: ( )
- b.** Level II: self-propelled including day skiing, hut skiing, multi-day expeditions, in hazardous terrain; or ( )
- c.** Level II skiing operations with snowcats, helicopters, or ski from out of bounds from ski areas. ( )
- 04. Outfitters Plan of Operation. A detailed Outfitters Plan of Operation is required which includes a plan for snowpack, terrain and avalanche safety assessment, additional transport utilized (i.e., snowmobiles, snowcats, helicopters) and instruction and training plans of guides working around related equipment. Additional safety and training standards for guides must be detailed in the operating plan.** ( )
- 05. Designated Agent. The Designated Agent must be a working Guide with the appropriate level of licensing for the operation and a minimum of five (5) years working at that level of guiding as to the scope of the operation.** ( )
- 06. Ski Guide Trainees. Trainees may be selected for employment by the outfitter and are not required to have a license. A trainee may only assist a licensed guide's direct supervision and trainees may not provide guided services to clients. Trainees must have thirty (30) days experience with a licensed ski guide in the outfitter's operating area and must meet all other guide requirements of Section 044 prior to submitting a guide application.** ( )
- 045. BACKCOUNTRY ALPINE SKI GUIDE (RESERVED).**  
*Before conducting operations, all backcountry alpine ski guides must be licensed by the Board and employed by an outfitter who has an operating plan approved by the land manager. Guides must meet the following requirements:* (4-1-92)
- 01- Avalanche Training. Have at least forty (40) hours avalanche training at a Forest Service school, an American Avalanche Institute, Sierra Avalanche seminars, or the equivalent.** (4-1-92)
- 02- Radio Communications. Have radio communication knowledge.** (4-1-92)
- 03- Skier Safety Rules. Have skier safety rules training.** (4-1-92)
- 04- Other. Have passed the regular backcountry qualifying examination and obtained full certification**



~~from a division of the Professional Ski Instructors Association (PSIA) or a qualified program acceptable to the Board.~~  
~~(4-1-92)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**054. BOAT EQUIPMENT REQUIREMENTS.**

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

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

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

**03. Identification.** (3-20-04)

**a.** Identification consisting of words, names, or letters indicating the current licensed outfitter. The identification shall be recorded with the Board on the outfitter application and shall be placed above the water line on each side of the bow or stern of the boat utilized by that outfitter in letters not less than three (3) inches in height, and be of a contrasting color. (Does not apply to single person boats or two (2) person inflatable boats). (3-20-04)

**b.** On Sections CL2 and CL3 of the Clearwater River, the outfitter shall have a sticker affixed to the surface of any boat used for ~~anadromous~~ anadromous fishing. The sticker shall not be less than eight (8) inches in height and shall be placed immediately adjacent to the identification words, names or letters on each side of the boat towards the bow, identifying the boat as operated by a licensed outfitter. The stickers shall be provided and sold annually by the Board or a vendor designated by the Board. ~~This requirement shall not apply to single person boats or inflatable boats. The sticker requirement is null and void after July 1, 2006.~~ (3-20-04)(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

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

**01. Licensable Waters -- River Sections (BL1) Blackfoot River through (PR1) Priest River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
(BL1) Blackfoot River - Morgan Bridge to Trail Creek Bridge	none	2
(B01) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. (Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman.) No overnight camping or walk-and-wade fishing allowed.	none	2

River/Section	Maximum No. Power	Maximum No. Float
<b>(BO2) Boise River</b> - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. (Each outfitter may use at any time a maximum of four (4) boats for boating activities.) The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2
<b>(CF1) Clark Fork River</b> - Montana stateline to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
<b>(CL1) Clearwater River</b> - Lowell to <u>the Upper Bridge at Kooskia</u> . (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	5
<b>(CL2) Clearwater River</b> - <u>The Upper Bridge at Kooskia</u> to the Orofino Bridge. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	6	10
<b>(CL3) Clearwater River</b> - <u>The Orofino Bridge</u> to <u>the Railroad Bridge at Lewiston</u> . (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan).	10	10
<b>* (NFCL) North Fork Clearwater River</b> - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
<b>(CDNF) Headwaters of North Fork Coeur d' Alene</b> - Including tributaries <u>(Independence and Tee Pee Creeks) upstream from Devils Elbow Campground</u> . Three (3) Walk and Wade only licenses. Allow only one (1) guide per license and up to two (2) clients per guide at one time. Limited to one hundred twenty (120) use days per day.	none	none

River/Section	Maximum No. Power	Maximum No. Float
<p><b>(CD1) Coeur d'Alene River</b> - Devil's Elbow to South Fork confluence (boating closing date June 30). <u>There is no limit on float guides or boats. Fishing limit is one (1) float boat per license with a maximum of two (2) clients at a time. Two (2) additional Walk and Wade licenses can be issued. Walk and wade limited to one (1) guide per license with a maximum of two (2) clients at a time.</u></p>	none	51
<p><b>(CD2) Coeur d'Alene River</b> - South Fork confluence downstream to Cataldo Mission Boat Ramp. <u>The float boat closing date is June 30. There is no limit on float guides or boats. Fishing limit is one (1) float boat per license with a maximum of two (2) clients at a time. Walk and wade limited to one (1) guide per license with a maximum of two (2) clients at a time. The walk and wade activities must be associated with float boating.</u></p>	none	1
<p><b>(CD3) Lateral (Coeur d'Alene chain) Lakes</b> - Connected by the Coeur d' Alene river. Cataldo Mission Boat Ramp to Highway 97 Bridge. <u>A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) guide per license and two (2) float tubes at a time or two (2) clients walking and wading. The walk and wade activities must be associated with the power boating.</u></p>	3	none
<p>* <b>(JB1) Jarbidge/Bruneau Rivers</b></p>	none	4
<p><b>(KO1) Kootenai River</b> - Montana stateline to Canada boundary</p>	5	5
<p><b>(LCL1) Little North Fork Clearwater River</b> - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. (Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.)</p>	none	2
<p>* <b>(LO1) Lochsa River</b></p>	none	5
<p><b>(MO1) Moyie River</b> - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)</p>	none	5
<p>* <b>(OW1) Owyhee River</b> - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River (and continuing on to a take-out point).</p>	none	6

River/Section	Maximum No. Power	Maximum No. Float
<b>(PN1) Payette River, North Fork</b> - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
<b>(PN1A) Payette River, North Fork</b> - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
<b>(PN2) Payette River, North Fork</b> - Cabarton to Smiths Ferry Bridge	none	5
<b>(PS1) Payette River, South Fork</b> - Grandjean to Deadwood River	none	5
<b>* (PS2) Payette River, South Fork</b> - Deadwood River to Banks	none	5
<b>(PA1) Payette River</b> - Banks to Black Canyon Dam	none	5
<b>(PO1) Pend Oreille River</b>	5	5
<b>(PR1) Priest River</b> - Dickensheet Campground to Priest River City	none	5

( )

**02. Licensable Waters -- River Sections (MF1) Middle Fork Salmon River Through (SE2) Selway River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
<b>*##(MF1) Salmon River, Middle Fork</b> - Boundary Creek to Indian Creek	none	27
<b>*## (MF2) Salmon River, Middle Fork</b> - Indian Creek to Cache Bar on the Salmon River	none	27
<b>(SA1) Salmon River</b> - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6

River/Section	Maximum No. Power	Maximum No. Float
<p><b>(SA2) Salmon River</b> - Torrey's Bar to first Highway 93 bridge above Challis. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan).</p>	none	5
<p><b>(SA3) Salmon River</b> - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.</p>	none	6
<p><b>(SA4A) Salmon River</b> - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.</p>	5	11
<p><b>(SA4B) Salmon River</b> - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.</p>	2	8
<p><b>(SA5) Salmon River</b> - North Fork to Corn Creek</p>	3	9
<p><b>###(SA6) Salmon River</b> - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.</p>	14	31
<p><b>* (SA7A) Salmon River</b> - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.</p>	10	26

River/Section	Maximum No. Power	Maximum No. Float
* <b>(SA7B) Salmon River</b> - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	6	12
* <b>(SA7C) Salmon River</b> - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
*** <b>(SA8) Salmon River</b> - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
* <b>(SE1) Selway River</b> - Paradise Campground to Selway Falls	none	4
<b>(SE2) Selway River</b> - Selway Falls to the mouth of the Selway River at Lowell. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	5

( )

**03. Licensable Waters -- River Sections (SH1) Henry's Fork Snake River Through (TE3) Teton River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
<b>(SH1) Snake River, Henry's Fork</b> - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing (No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	7

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

River/Section	Maximum No. Power	Maximum No. Float
* (SN6) Snake River - Star Falls to Twin Falls	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing, (two (2) one-day float trips only)	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters)	
(SJ1) St. Joe River - Spruce Tree Campground to St Joe City Bridge. St. Joe City Bridge to Lake Coeur d'Alene	none 2	2 none
(SM1) St. Maries River	5	5



River/Section	Maximum No. Power	Maximum No. Float
<b>(TE1) Teton River</b> - Upper put-in to Cache Bridge, (motors not to exceed 10 hp)	5 outfitters for either power or float or combination thereof	
<b>(TE2) Teton River</b> - Cache Bridge to Harrop Bridge, (motors not to exceed 10 hp)	6 outfitters for either power or float or combination thereof	
<b>(TE3) Teton River</b> - Harrop Bridge to confluence with Snake River, (motors not to exceed 10 hp)	none	5

\* Classified rivers

## Floatboat and powerboat outfitters on these sections shall be considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but shall not include overnight activities. Conflicts with land-based outfitters shall be handled on a case-by-case basis. (3-20-04)( )

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

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

(4-1-92)

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

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

### **31.61.01 - RULES FOR THE MEASUREMENT OF STRAY CURRENT OR VOLTAGE (THE STRAY VOLTAGE RULES)**

**DOCKET NO. 31-6101-0501**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is September 14, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Commission has adopted a temporary rule and initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-803, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this proposed rule will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, but not later than September 21, 2005.

The hearing site 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:

In March 2005, the Idaho Legislature passed and the Governor signed the Stray Current and Voltage Remediation Act codified at Title 61, Chapter 8, Idaho Code. "Stray voltage" is a natural phenomenon that can be found at low levels in areas where electricity is grounded. All electrical systems – including a dairy producer's on-farm system and a utility's distribution system – must be grounded to the earth as required by various safety codes to ensure continuous safety and reliability. Inevitably, some current flows through the earth at each point where the electrical system is grounded and a small voltage develops. When a portion of this voltage is measured between two objects that may be simultaneously contacted by a dairy cow, it is frequently called "stray voltage". Stray voltage is not electrocution and is not direct current, ground currents, electromagnetic fields (EMFs), or earth currents.

These rules standardize the measurement and testing procedures used to measure stray voltage and current. The Commission has temporarily adopted and is proposing six (6) tests to detect and measure stray voltage. The rules also prescribe qualifications for those conducting and analyzing the tests. The rules include forms for investigators to use when gathering voltage and current data at a dairy. Pursuant to Section 61-803, Idaho Code, only tests and measurements made in compliance with these rules shall be admissible before the Commission or in any civil action.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a, b, c), Idaho Code, the Governor approved the Legislature's finding that temporary adoption of this rule is appropriate for the following reasons:

Section 61-803, Idaho Code, requires that the Commission promulgate temporary and proposed rules establishing uniform measurement procedures within six (6) months of the effective date of the Stray Current and Voltage Remediation Act. The Act became effective March 28, 2005. Pursuant to Section 61-801, Idaho Code, the Legislature found and the Governor concurred that the "efficient and safe distribution of electricity is critical to the well-being of the citizens and the economy of the state, including the business of agriculture, and that [enactment of the Stray Current and Voltage Remediation Act] is necessary for the protection of the public welfare and benefit". The Act confers benefits on both electric utilities and dairy producers.

**FEE SUMMARY:** There is no fee associated with these rules.

**FISCAL IMPACT:** There is no adverse fiscal impact on the State General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, May 4, 2005 in Volume 05-5 at page 107. Parties participating in the negotiated rulemaking included Idaho Power Company, the Milk Producers of Idaho, the Idaho Dairymen's Association, and Commission Staff.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance

on technical questions concerning the temporary and proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED at Boise, Idaho this 28th day of July 2005.

Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720, Boise, ID 83720-0074  
Telephone: (208) 334-0338  
Facsimile: (208) 334-3762  
E-mail: secretary@puc.idaho.gov

Street address for express delivery:

472 W Washington  
Boise, Idaho 83702-5983

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-6101-0501**

**IDAPA 31**  
**TITLE 61**  
**CHAPTER 01**

**31.61.01 - RULES FOR THE MEASUREMENT OF STRAY CURRENT OR VOLTAGE**  
**(THE STRAY VOLTAGE RULES)**

**RULES 0 THROUGH 11 -- GENERAL PROVISIONS**

**000. LEGAL AUTHORITY (RULE 0).**

These rules are promulgated pursuant to the authority of the Idaho Public Utilities Law, Sections 61-515 and 61-520, Idaho Code, and the Stray Current and Voltage Remediation Act, Section 61-803, Idaho Code. (9-14-05)T

**001. TITLE AND SCOPE (RULE 1).**

**01. Title.** The title of these rules is the IDAPA 31.61.01 - "Rules for the Measurement of Stray Current or Voltage" (Stray Voltage Rules). (9-14-05)T

**02. Scope.** These rules are applicable to dairy producers, public utilities and all persons or entities involved in any way in the measurement or remediation of stray current or voltage within Idaho. (9-14-05)T

**002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).**

The Supervisor of the Commission's Engineering Section is authorized to make and give informal interpretations of these rules. Written interpretations to these rules are maintained by the Commission Secretary. The Commission Secretary may be contacted in writing at the Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074, or may be reached by telephone at (208) 334-0300. The Commission reserves to itself the authority to issue formal declaratory orders construing these rules. (9-14-05)T

**003. ADMINISTRATIVE APPEALS (RULE 3).**

There are no provisions for administrative appeals within the Commission under these rules. (9-14-05)T

**004. INCORPORATION BY REFERENCE -- REFERENCE TO SAFETY CODES (RULE 4).**

**01. Safety Codes.** These rules reference two (2) national safety codes. (9-14-05)T

**a.** The National Electrical Safety Code (NESC) is applicable to public utilities and is adopted by the Commission in IDAPA 31.11.01, "Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission". (9-14-05)T

**b.** The National Electrical Code (NEC) is applicable to the installation of wires and facilities used to convey electric current and to apparatus to be operated by such electric current. Adoption of the National Electrical Code is found at Section 54-1001, Idaho Code, and IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code," Section 011. (9-14-05)T

**005. OFFICE -- OFFICE HOURS -- MAILING, ELECTRONIC AND STREET ADDRESSES (RULE 5).**

**01. Office Hours.** The principal office of the Commission is in Boise, Idaho. This office is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-0300. The hearing or speech impaired may reach the Commission through the Idaho Telecommunications Relay Service by dialing 711. (9-14-05)T

**02. Mailing and Street Addresses.** The Commission's mailing address is: Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074. The street address for the Commission is: 472 West Washington Street, Boise, Idaho 83702-5983. All documents filed in all proceedings under these rules must be filed with the Commission at one (1) of these addresses. (9-14-05)T

**03. Electronic Address.** The Commission's electronic address for its Internet homepage is: [www.puc.idaho.gov](http://www.puc.idaho.gov). (9-14-05)T

**006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).**

Unless specifically exempted from public disclosure by the Public Records Act, Title 9, Chapter 3, Idaho Code, all materials filed with the Commission pursuant to these rules are presumed to be public documents subject to inspection, examination and copying. Whenever a party believes that information contained in pleadings or other documents are trade secrets, confidential or otherwise exempt from public disclosure, the attorney of such party must state in writing that the information is protected by law from public inspection, examination or copying, citing the specific grounds and legal authority for that assertion. The Commission will treat confidential information in compliance with IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Section 067. (9-14-05)T

**007. LIBERAL CONSTRUCTION (RULE 7).**

These rules will be liberally construed to secure just, speedy and economical determination of all issues presented to the Commission. (9-14-05)T

**008. PRACTICE AND PROCEDURES -- FORMS (RULE 8).**

All proceedings under these rules will be conducted in accordance with IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Forms used for recording voltage or current measurements under these rules appear in the Appendices. Subject to prior approval by the Commission, spreadsheets or electronic forms in substantially similar format and containing all relevant data may be used. Calculations may be automated as part of these electronic forms. (9-14-05)T

**009. ABBREVIATIONS (RULE 9).**

Abbreviations or acronyms used in these rules are defined where they appear. (9-14-05)T

**010. DEFINITIONS (RULE 10).**

- 01. Adequate Remediation.** Means corrective action taken by a utility which results in, and is reasonably likely to sustain, a reduction of stray current or voltage attributable to the utility's distribution system to a measured level that is fifty percent (50%) or less of the preventive action level. (9-14-05)T
- 02. Ampere.** A unit of measure of current. A milliamperere is one-one thousandths (1/1,000) of an ampere. (9-14-05)T
- 03. Commission.** Means the Idaho Public Utilities Commission. (9-14-05)T
- 04. Cow Contact Points.** Means any two (2) points on electrically conductive materials in a dairy which a dairy cow may (in its normal environment on the dairy) unavoidably and simultaneously contact. Electrically conductive material may include the surface(s) that the cow is standing on as one (1) or both cow contact points. (9-14-05)T
- 05. Equipotential Plane (EPP).** Means an area where wire mesh or other conductive elements are imbedded in or placed under concrete, bonded to all metal structures and fixed nonelectrical equipment that may become energized, and connected to the electrical grounding system to prevent a difference in voltage from developing within the plane. (9-14-05)T
- 06. Preventive Action Level (PAL).** Stray current or voltage that, when correctly measured, is either:  
(9-14-05)T
- a.** A steady state, root mean square (rms) alternating current (AC) of two (2) milliamperes (mA) or more through a five hundred (500) ohm resistor (i.e., shunt resistor) connected between cow contact points, as measured by a true rms meter, or; (9-14-05)T
- b.** Any steady state, rms AC voltage of one (1.0) volt or more across (in parallel with) a five hundred (500) ohm resistor (i.e., shunt resistor) connected between cow contact points, as measured by a true rms meter. (9-14-05)T
- 07. Primary System.** A term that describes the high voltage utility electrical system including the generation, transmission and distribution systems. It also refers to the high voltage side of a distribution transformer. (9-14-05)T
- 08. Secondary System.** Means the low-voltage utility electrical system on the secondary side of a distribution transformer. The dairy's on-farm system begins on the dairy's side of the metering points, except for dairies metered on the high voltage side of the transformer(s). In the case of dairies metered on the high voltage side, the on-farm system begins at the transformer's low-voltage lugs. (9-14-05)T
- 09. Service Provider.** Means any person, company or other legal entity providing stray voltage or current testing, consulting, measurements, analysis services, construction, or hardware. (9-14-05)T
- 10. Shunt Resistor.** A physical resistor or combination of resistors used to simulate a dairy cow during the measurement of cow contact voltage. As used in these rules, a shunt resistor shall be five hundred (500) ohm plus or minus two percent (+/- 2%). (9-14-05)T
- 11. Source Resistance.** Means that portion of resistance in the circuit, other than the resistance of the cow, when the cow is completing a circuit between contact points. Body-to-metal contact resistance and hoof-to-earth resistance may represent a portion of the source resistance. (9-14-05)T
- 12. Steady State.** The value of a current or voltage after an amount of time has passed where all transients have decayed to a negligible value. (9-14-05)T
- 13. Stray Current or Voltage.** Stray voltage or current is: (9-14-05)T
- a.** Any steady state, sixty (60) hertz (Hz) (including harmonics thereof) root mean square (rms) alternating current (AC) less than twenty (20) milliamperes (mA) through a five hundred (500) ohm resistor (i.e.,

shunt resistor) connected between cow contact points, as measured by a true rms meter; or (9-14-05)T

**b.** Any steady state, sixty (60) Hz (including harmonics thereof), rms AC voltage of less than ten (10) volts, across (in parallel with) a five hundred (500) ohm resistor (i.e., shunt resistor) connected between cow contact points, as measured by a true rms meter. (9-14-05)T

**c.** Stray current and voltage is a normal, inherent and unavoidable result of electricity traveling through grounded electrical systems, including a dairy producer's on-farm system and a utility's distribution system. These systems are required by the National Electrical Code (NEC) and the National Electrical Safety Code (NESC) to be grounded to the earth to ensure safety and reliability. (9-14-05)T

**d.** Unless the context otherwise requires, the term "stray voltage" shall mean stray current or stray voltage. (9-14-05)T

**14. Tests, Measurements, Procedures and Analysis.** Means any or all of the stray voltage testing, measurement, work and work product defined in these rules. (9-14-05)T

**15. Transient.** Transient or transient deviation means a non-steady state increase or spike in voltage or current. For the purpose of identifying and reporting transients in cow contact voltage (Vcc) or current (Icc), a transient occurs when the recorded maximum Vcc or Icc in a recording interval exceeds two hundred percent (200%) of the steady state Vcc or Icc recorded during the same recording interval. (9-14-05)T

**16. Utility.** Means a public electric utility as defined in Section 61-332A, Idaho Code. (9-14-05)T

**011. PURPOSE OF RULES -- CONFORMANCE TO ELECTRICAL CODE (RULE 11).**

These rules standardize the measurement and testing procedures used to measure stray voltage and current. Standardization of testing will provide a consistent basis for determining the presence and level of stray voltage in a dairy and how to determine the source of that stray voltage or current. These rules do not replace existing safety standards embodied in electrical codes. Any conflict between these rules and the National Electrical Code or the National Electrical Safety Code shall be promptly brought to the attention of the Commission. Under these rules, testing is intended to determine: (9-14-05)T

**01. Presence of Stray Voltage.** The presence and amount of any stray voltage or current within the dairy. (9-14-05)T

**02. Sources of Stray Voltage.** The source(s) of any stray voltage or current detected. (9-14-05)T

**03. Contributions to Stray Voltage.** The percent contribution from the utility side and the dairy side of the dairy service entrance to the total stray voltage or current measured on the dairy. (9-14-05)T

**012. -- 020. (RESERVED).**

**RULES 21 THROUGH 30 -- APPLICABILITY AND ADMISSIBILITY**

**021. UTILITY (RULE 21).**

A utility measuring or testing for stray voltage or current at the request of a dairy producer, as directed by the Commission or on its own initiative, shall conduct such measurements in accordance with these rules. (9-14-05)T

**022. DAIRY PRODUCER (RULE 22).**

**01. Serving Notice on the Utility.** A dairy producer providing written notice to a utility pursuant to Section 61-804, Idaho Code, shall specify why the dairy producer believes its dairy cows are being affected by electrical energy attributable to the utility. A dairy producer may provide such notice with or without first having conducted tests or measurements of stray voltage. (9-14-05)T

**02. Cooperation.** When a written notice is filed with the utility, the dairy is obligated to make any contact point(s), service panels, grounding rods or other electrical equipment at the dairy available to the utility for measuring and testing. The utility shall provide reasonable notice and cooperate with the dairy producer to establish an appropriate time to conduct the tests and measurements. The dairy shall cooperate with the utility so that all tests and measurements necessary to identify the existence and magnitude of stray current or voltage, if any, are completed within fourteen (14) days of the utility's receipt of such notice. (9-14-05)T

**023. SERVICE PROVIDERS (RULE 23).**

Any person performing any stray voltage measurement or test on behalf of a utility or a dairy shall be deemed a service provider and shall follow these rules. (9-14-05)T

**024. ADMISSIBILITY (RULE 24).**

Only tests and measurements made in compliance with these rules shall be admissible before the Commission or in any civil action. (9-14-05)T

**025. -- 030. (RESERVED).**

**RULES 31 THROUGH 40 -- QUALIFICATIONS OF PERSONS  
PERFORMING AND ANALYZING RESULTS OF STRAY VOLTAGE TESTS**

**031. PERFORMANCE OF TESTS AND MEASUREMENTS (RULE 31).**

Measuring and testing for stray voltage under these rules for consideration by the Commission shall be performed by a qualified testing professional. The following persons are presumed to be qualified testing professionals: (9-14-05)T

**01. Professional Engineer.** A professional engineer, licensed in any state, who has completed no fewer than forty-eight (48) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. (9-14-05)T

**02. Master Electrician.** A master electrician, licensed in any state, who has completed no fewer than forty-eight (48) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. (9-14-05)T

**03. Technician.** A technician who, under the supervision of a person presumed qualified under Subsections 031.01 and 031.02, has completed no fewer than eight (8) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. (9-14-05)T

**032. DATA ANALYSIS (RULE 32).**

Analysis of data under these rules, for consideration by the Commission, shall be performed by a qualified analyst. A professional engineer, licensed in any state, who has completed no fewer than forty-eight (48) hours of stray voltage training and who has been involved in no fewer than five (5) prior investigations involving measurement or testing of stray voltage shall be presumed to be a qualified analyst. (9-14-05)T

**033. PERSONS OTHERWISE QUALIFIED (RULE 33).**

A person who does not satisfy the qualifications in Sections 031 and 032, may nonetheless be determined by the Commission to be a qualified testing professional or a qualified analyst if, on motion of any party, the Commission finds that person otherwise possesses the knowledge, skill, experience, training, or education that qualifies that person to offer expert testimony before the Commission. (9-14-05)T

**034. -- 050. (RESERVED).**

**RULES 51 THROUGH 60 -- CALIBRATION OF AND EQUIPMENT USED FOR MEASURING  
AND RECORDING VOLTAGE, CURRENT AND RESISTANCE**



**051. GENERAL REQUIREMENTS FOR STRAY VOLTAGE MEASURING AND RECORDING EQUIPMENT (RULE 51).**

Equipment used for the measurement or testing of stray voltage, current, and resistance shall meet the following criteria: (9-14-05)T

**01. Resolution and Accuracy.** The accuracy and resolution of any instrument used to measure or record cow contact voltage or current, shall limit the error to five percent (5%) or less at one volt (1 V) or two milliamperes (2 mA). (9-14-05)T

**02. Voltage Measurement.** Instruments used to measure cow contact voltage shall be capable of separating and independently measuring alternating current (AC) and direct current (DC) voltages. These instruments shall have a minimum internal impedance of ten thousand (10,000) ohms and shall be capable of measuring the true-rms voltage. (9-14-05)T

**03. Current Measurement.** A clamp-on ammeter, a digital multi-meter (DMM) with clamp-on device, or an in-line ammeter shall be used to measure current between two (2) points. The meters shall be capable of separating and independently measuring alternating current (AC) and direct current (DC) and shall be capable of measuring the true-rms current. Care must be taken to assure that clamp-on ammeters used have the required resolution and accuracy. (9-14-05)T

**04. Resistance Measurement.** Resistance shall be measured using either a volt ohmmeter (VOM) or a DMM. Resolution shall be to the level of one (1) ohm or less when measuring a resistance of less than one thousand (1,000) ohms. Accuracy shall be within plus or minus five (+/-5) ohms for a five hundred (500) ohm resistance. (9-14-05)T

**05. Resistance-to-Earth Measurement.** Grounding electrode resistance-to-earth measurements shall be made with a three- (3) point fall-of-potential instrument or a clamp-on resistance-to-earth tester. (9-14-05)T

**052. CALIBRATION REQUIREMENTS (RULE 52).**

**01. Measuring Equipment Calibration.** All measuring equipment shall be calibrated according to the manufacturer's recommended calibration schedule, but no less than annually, to meet the manufacturer's specifications for the accuracy and resolution of the equipment. Measuring equipment shall not be used after its next "calibration due" date for measurements or tests conducted during a stray voltage investigation. Calibration shall be performed by either: (9-14-05)T

**a.** The manufacturer of the equipment, who shall certify that the equipment meets the manufacturer's specifications for accuracy and resolution; or (9-14-05)T

**b.** A laboratory currently certified as meeting all applicable Institute of Electrical and Electronic Engineers (IEEE) and International Organization for Standards (ISO) standards. (9-14-05)T

**02. Calibration Certificates.** The service provider performing the tests and measurements shall maintain certificates from the manufacturer or the calibration laboratory demonstrating compliance with calibration requirements. (9-14-05)T

**03. Field Check.** Before voltage or current measurement or testing is performed, the instrument shall be field-checked by comparing measurements to those of other instruments or against a known source. (9-14-05)T

**053. REQUIREMENTS FOR MONITORING AND RECORDING DEVICES (RULE 53).**

Digital recording devices shall be used for the purpose of recording current and voltage for extended periods, such as the forty-eight (48) hour test. The recording devices shall have the same level of resolution and accuracy as the meters being used for the measurements. Monitoring systems, which combine measuring and recording functions in a single instrument, shall have the same level of resolution and accuracy as specified in Section 051. Recording devices and monitoring systems shall be capable of recording transient deviations of one-tenth (0.1) second or less in duration from the steady state. Digital recording devices, which have deviation settings, shall permit the deviation setting to be

set “low” enough to meet the resolution and accuracy requirements in Subsection 051.01 of these rules. All recording devices shall be able to log the time and date of all data recorded and shall have their internal clocks synchronized. (9-14-05)T

**054. REQUIREMENTS FOR LOAD BOXES (RULE 54).**

The load box shall meet the following criteria: (9-14-05)T

**01. Volts.** A load box shall be a primarily non-inductive nominal two hundred forty (240) volt, resistance heating type load with a minimum nominal full load of eighteen (18) kilowatts (kW). (9-14-05)T

**02. Split-Load.** A load box shall be capable of operating at two (2) or more load settings, including approximately fifty percent (50%) and one hundred percent (100%) of the load box’s rated total load. (9-14-05)T

**055. -- 070. (RESERVED).**

**RULES 71 THROUGH 80 -- TESTING AND MEASUREMENT PROCEDURES**

**071. STRAY CURRENT OR VOLTAGE TESTS (RULE 71).**

Subject to Subsection 071.02, there are six (6) tests used to detect and measure stray current or voltage. (9-14-05)T

**01. Order of Stray Voltage Tests.** The tests shall be performed in the order listed below. Efforts shall be made to perform the tests under conditions substantially similar to those conditions existing at the time(s) the dairy producer believes stray voltage to be a problem. (9-14-05)T

- a.** Test 1 – Cow Contact Test; (9-14-05)T
- b.** Test 2 – Forty-Eight (48) Hour Test; (9-14-05)T
- c.** Test 3 – Primary Profile Test; (9-14-05)T
- d.** Test 4 – Secondary Neutral Voltage Drop Test; (9-14-05)T
- e.** Test 5 – Load Box Test; and (9-14-05)T
- f.** Test 6 – Signature Test. (9-14-05)T

**02. Testing Sequence.** Tests 1 and 2 shall be performed first to determine the presence and level of stray voltage. (9-14-05)T

**a.** If the results from Tests 1 and 2 indicate that stray voltage does not exceed the preventive action level (PAL), the utility has no further testing or remediation obligations under these rules during this test cycle. (9-14-05)T

**b.** If the PAL is exceeded, the utility shall perform the remaining four (4) tests. The utility shall also perform analysis to determine whether the portion of the stray current or voltage attributable to an off-farm source exceeds fifty percent (50%) of the PAL. (9-14-05)T

**c.** If the PAL is exceeded, and the portion of the stray current or voltage attributable to an off-farm source does not exceed fifty percent (50%) of the PAL, the utility has no further testing or remediation obligations. (9-14-05)T

**d.** If the PAL is exceeded, and the portion of the stray current or voltage attributable to an off-farm source exceeds fifty percent (50%) of the PAL, the utility shall conduct remediation pursuant to Section 091. (9-14-05)T

e. For all testing conducted under these rules, the utility shall have a qualified analyst prepare a report pursuant to Section 082. (9-14-05)T

**072. PREPARATION FOR TESTING (RULE 72).**  
The person performing the tests shall perform the following: (9-14-05)T

**01. Remote Reference Grounding Rod.** (9-14-05)T

a. Remote reference grounding rod(s) shall be installed and penetrate moist soil to a depth of thirty (30) inches. When practicable, remote reference rods shall be installed at least twenty-five (25) feet away from the nearest underground conductive electrical equipment of any type or at a distance equal to three (3) to four (4) times the buried depth of any metallic structure connected to the service entrance neutral. The reference ground rod shall be located not closer than twenty-five (25) feet from the centerline of a primary electrical conductor right-of-way. A reference rod shall be located not closer than one hundred (100) feet from the edge of a transmission line right-of-way. (9-14-05)T

b. All remote reference grounding rods shall be checked for "remoteness" prior to their use for tests or measurements and if found to be insufficiently "remote," a new location for that reference ground rod shall be found and retested for remoteness. Remoteness of the reference ground shall be determined by measuring the voltage from the transformer grounding electrode conductor to the remote reference ground. The resistance-to-earth of the transformer grounding electrode shall be measured. The grounding electrode current shall be measured. Remoteness is considered adequate if the measured voltage (transformer grounding conductor to reference ground,  $V_p$ ) is within twenty percent (20%) of the voltage calculated by multiplying the grounding electrode current by the grounding electrode resistance-to-earth. (9-14-05)T

c. If the transformer grounding electrode is within twenty-five (25) feet of other primary or secondary grounding electrodes, this remoteness test shall be conducted at the first primary system grounding electrode upstream of the transformer that is greater than twenty-five (25) feet from other primary or secondary system grounding electrodes. (9-14-05)T

**02. Inspecting the Transformer(s).** Prior to testing, the utility transformer shall be inspected, grounding electrode resistance measured, and any repairs necessary for safety be made and recorded. In the case of a customer-owned transformer, qualified personnel shall inspect the installation, measure grounding electrode resistance, and make and record any repairs necessary for safety. Measurements that require contact with utility or customer-owned primary wires or equipment shall be made by the utility or other qualified personnel. (9-14-05)T

**03. In-Line Ammeters.** If in-line or series ammeters are used, they shall be installed under safe conditions in accordance with the National Electrical Safety Code and the National Electrical Code with the entire dairy system or the specific circuit to be tested de-energized. (9-14-05)T

**04. Pre-Test Documentation.** (9-14-05)T

a. All pre-test calibration requirements from Section 052 shall be completed and documented. (9-14-05)T

b. A sketch or drawing of the dairy shall be prepared indicating: (9-14-05)T

i. The location of the buildings; (9-14-05)T

ii. Secondary electrical service panels and secondary feeder systems serving cow contact areas; (9-14-05)T

iii. Transformer(s) and central distribution point; (9-14-05)T

iv. Existing grounding electrodes (if known); (9-14-05)T

v. The location of all cow contact points to be tested; (9-14-05)T

- vi. All remote reference grounding rods; and (9-14-05)T
- vii. All primary and secondary neutral test points used in conjunction with the remote reference grounding rod(s). (9-14-05)T

**c.** A listing of planned test points shall be prepared using the applicable form prior to beginning each test. Each test shall be listed separately and specific reference numbers shall be given to each planned test point. (9-14-05)T

**05. Safety.** (9-14-05)T

**a.** If the service provider reasonably concludes that a dairy's noncompliance with the National Electrical Code poses a significant and immediate safety hazard which prevents completion of any test or measurement required by these rules, then the service provider's obligations to proceed under these rules shall be suspended until the hazard is eliminated. (9-14-05)T

**b.** At the discretion of the service provider conducting the test, livestock shall be removed from any area where electrical equipment or wiring is examined or electrical measurements are taken. Testing may be suspended if the presence of cows or other animals creates a potential hazard to testing personnel. The locations of electric fences and other electrified cow control devices shall be noted and de-energized where practical. (9-14-05)T

**073. TEST 1 -- COW CONTACT TEST (RULE 73).**

**01. Purpose.** The purpose of this test is to determine the location(s), if any, where stray current or voltage exceeds the preventive action level (PAL) and to identify the location(s) at which the cow contact voltage will be recorded in the forty-eight (48) hour test. (9-14-05)T

**02. Selection of Cow Contact Points.** The selection of cow contact points to be tested shall include a sufficient number of locations reasonably likely to demonstrate the presence of stray voltage or current, if any. (9-14-05)T

**03. Conducting the Test.** The voltage across the shunt resistor or current through the shunt resistor shall be measured between cow contact points as shown in Figure 1. The source resistance shall be calculated during analysis for all cow contact points. (9-14-05)T

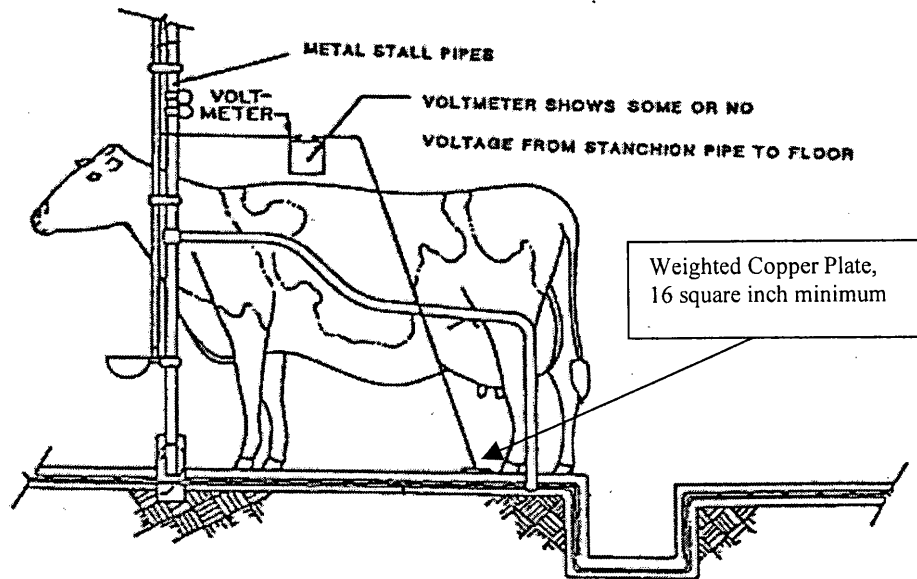


Figure 1, Cow Contact Test.

(9-14-05)T

a. When using a voltmeter to measure voltage between contact points where one (1) of those points is the floor surface, the equipment shall be arranged as shown in Figures 1 and 2, using a metal plate, which shall make a high quality conductive contact with the ground or floor. If the service provider is unsure of having a high quality conductive contact with the floor or ground, then the procedure described in Paragraph 073.03.c. shall be followed. If necessary, corrosion shall be removed from the point(s) where test lead(s) make contact with metal equipment.

(9-14-05)T

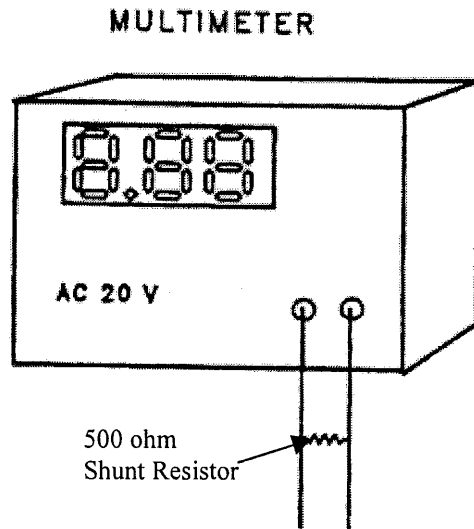


Figure 2, Cow Contact Voltage Measurement.

(9-14-05)T

b. When using an in-line milliammeter or a clamp-around milliammeter to measure current between contact points and one (1) of those points is the floor surface or earth, the equipment shall be arranged as shown in Figure 3, using a metal plate which shall make high quality conductive contact with the ground or floor. If the service provider is unsure of having a high quality conductive contact with the floor or ground, then the procedures described in Paragraph 073.03.c. shall be followed. If necessary, corrosion shall be removed from the point(s) where test lead(s) make contact with metal equipment. (9-14-05)T

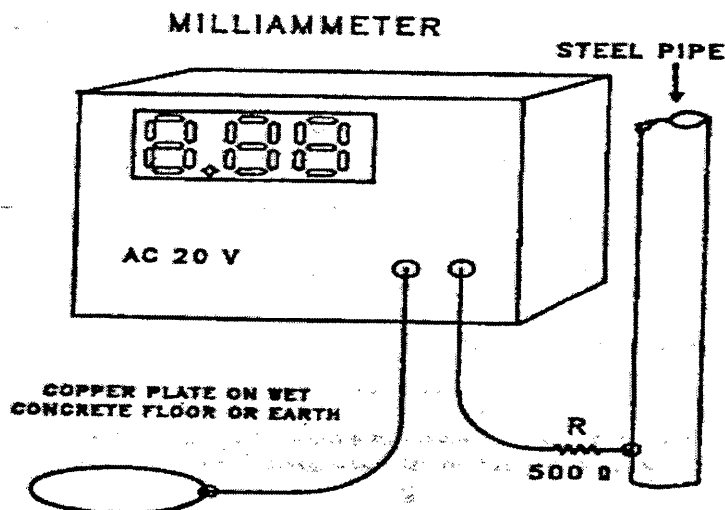


Figure 3, Set Up for Measuring Current Cow Contact Point to Ground

(9-14-05)T

c. A metal plate used to make an electrical contact with the earth or floor shall be of regular shape (square, rectangular or round), and shall have a surface area equal to or greater than sixteen (16) square inches (4 inches x 4 inches or equivalent). Place a weight not less than twenty (20) pounds on the metal plate. This weight shall be applied evenly across the metal plate and not to the adjacent concrete or earth. Place the metal plate a minimum distance of twelve (12) inches from any metal equipment making contact with the floor or earth. (9-14-05)T

i. Where the metal plate is to be placed on a concrete floor, the surface shall be flat. Clean the floor surface with a wire brush to remove debris that may add excess resistance. Use water to clean the floor surface at the point where the metal plate will be placed. Place a paper towel or similar material soaked in saltwater between the metal plate and the concrete floor. (9-14-05)T

ii. Where the metal plate is to be placed on the ground or earth surface, the surface shall be flat. Remove any debris and add water to the area, if necessary, to dampen the soil. The surface of the metal plate that will make contact with the earth shall be clean and free of corrosion before use. Remove any corrosion, if necessary. (9-14-05)T

**04. Recording the Data.** The person conducting this test shall record the location of, and measured values at, each test point. At each cow contact location, an open circuit voltage reading (Voc) and a voltage with five hundred (500) ohm nominal shunt resistor placed across the input to the meter (Vshunt) shall be taken. These readings shall be taken with ten (10) seconds or less time between each reading. Alternatively, a current measurement (Ishunt) may be taken in place of the voltage reading (Vshunt). Data for these test points shall be recorded on the form in Appendix 1. (9-14-05)T

**05. Source Resistance Calculation.** The source resistance (Rsource) shall be calculated for each cow contact location measured and the value recorded in Appendix 1. The following formulas shall be used to calculate source resistance. (9-14-05)T

$$R_{\text{source}} = \frac{V_{\text{oc}} - V_{\text{shunt}}}{V_{\text{shunt}}} \times R_{\text{shunt}} \quad (9-14-05)T$$

$$R_{\text{source}} = \frac{V_{\text{oc}}}{I_{\text{shunt}}} - R_{\text{shunt}} \quad (9-14-05)T$$

**074. TEST 2 -- FORTY-EIGHT HOUR TEST (RULE 74).**

**01. Purpose.** The purpose of this test is to determine whether stray current or voltage exceeds the preventive action level (PAL) at selected location(s) over a forty-eight (48) hour period. The test also demonstrates whether the primary or secondary sides of the system have a specific impact on the recorded current or voltage at specific times of day. (9-14-05)T

**02. Setup.** A digitizing data recorder with averaging capability and capable of detecting and recording transient deviations of one-tenth (0.1) second or less in duration shall be used to record the following: (9-14-05)T

a. Voltage from primary neutral at the transformer to remote reference ground, Vp. (9-14-05)T

b. Voltage from secondary neutral in the service panel serving the area of the cow contact to remote reference ground, Vs. (9-14-05)T

c. Voltage drops (Vps) from primary neutral at the location of connection for Vp to secondary neutral at the location of the connection for Vs. (9-14-05)T

d. Cow contact current through (Icc) or voltage across a five hundred (500) ohm resistor at the high voltage point(s) found in Test 1, Vcc. (9-14-05)T

**03. Measurement Interval.** The results of the forty-eight (48) hour test may be highly indicative of the presence of stray voltage. A recording interval as high as ten (10) seconds may be used provided that transient deviations of voltage or current of one-tenth (0.1) second or less in duration of voltage or current are recorded to the maximum ability of the instrument. (9-14-05)T

**04. Measurement at the Cow Contact Point(s).** Measurements to the earth or concrete surface shall be to a metal plate as described in Paragraph 073.03.c. when making measurements to metal objects, corrosion shall be removed to obtain a low resistance connection. (9-14-05)T

**05. Recording the Data.** All of the data gathered by the recording equipment during the forty-eight (48) hour test including transients shall be downloaded and retained with the records of the investigation. In addition, the steady-state data shall be summarized in the investigation report. The recorded data shall be made available to the dairy producer or utility upon request. The person conducting this test shall record the location of, and measured values at, each test point. The identification of the cow contact point shall be recorded on the form in Appendix 2. Transient deviations shall be recorded on the supplemental data form, page 3 of 3 in Appendix 2. A plot of the voltage versus time may be substituted for the recording of measured values in Appendix 2. (9-14-05)T

**075. TEST 3 -- PRIMARY PROFILE TEST (RULE 75).**

**01. Purpose.** The purpose of this test is to measure or calculate neutral-to-earth voltage (NEV) for a multi-grounded distribution system. (9-14-05)T

**02. Conducting the Test.** The primary profile test requires concurrent measurement of the ground electrode resistance and current at all primary system ground points within three quarters (3/4) of a mile on either side of all primary service points serving the dairy, or to the end of the line if less than three quarters (3/4) of a mile. Alternatively, the voltage between a remote grounding rod and the primary ground point being tested may be measured. (9-14-05)T

**a.** This test shall be conducted starting at one (1) end of the distribution system and working toward the other end while checking all branch lines encountered within the specified distance. Figure 4 below illustrates the procedure. (9-14-05)T

**i.** Where the dairy is served by a dedicated tap of less than one half (1/2) mile in length from a distribution line, the neutral-to-earth voltage shall be measured at each primary ground along the tap and along the distribution line to a distance of three quarters (3/4) of a mile in each direction from the point of the tap; or (9-14-05)T

**ii.** Where a dairy is served by a dedicated tap that extends more than one half (1/2) mile from the distribution line, the neutral-to-earth voltage shall be measured at each primary grounding electrode along the tap and along the distribution line to a distance of one half (1/2) mile in each direction from the point of the tap. (9-14-05)T

**03. Recording the Data.** The person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 3. (9-14-05)T



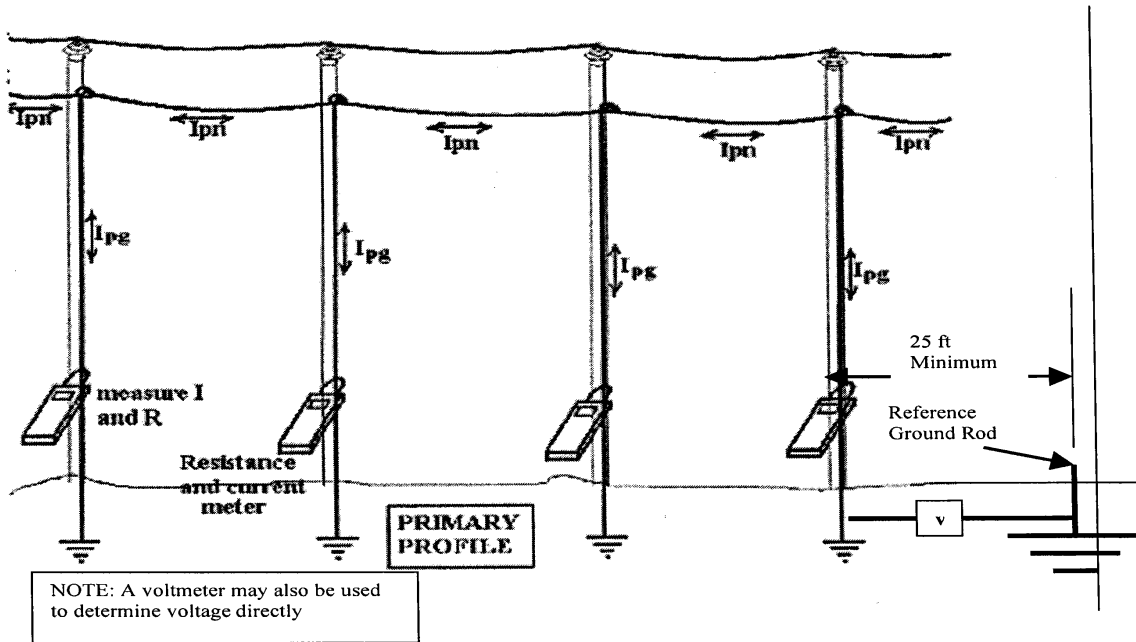


Figure 4

(9-14-05)T

**076. TEST 4 -- SECONDARY NEUTRAL VOLTAGE DROP TEST (RULE 76).**

**01. Purpose.** This test is used to determine the impact of each secondary service on the neutral-to-earth (NEV) and cow contact voltages on the dairy under controlled conditions.

(9-14-05)T

**02. Conducting the Test.** This test shall be performed for all service entrances. A proxy load of known characteristics (such as a resistive load like a one hundred twenty (120) volt, fifteen hundred (1,500) watt hairdryer) is required for this test. The proxy load must create a known and stable current and subsequent voltage drop for each neutral serving a main panel, sub-panel or end-of-service area. All service entrances other than that being tested shall be turned "off" to perform this test. A diagram showing the connections and measurement points for this test is shown in Figure 5.

(9-14-05)T

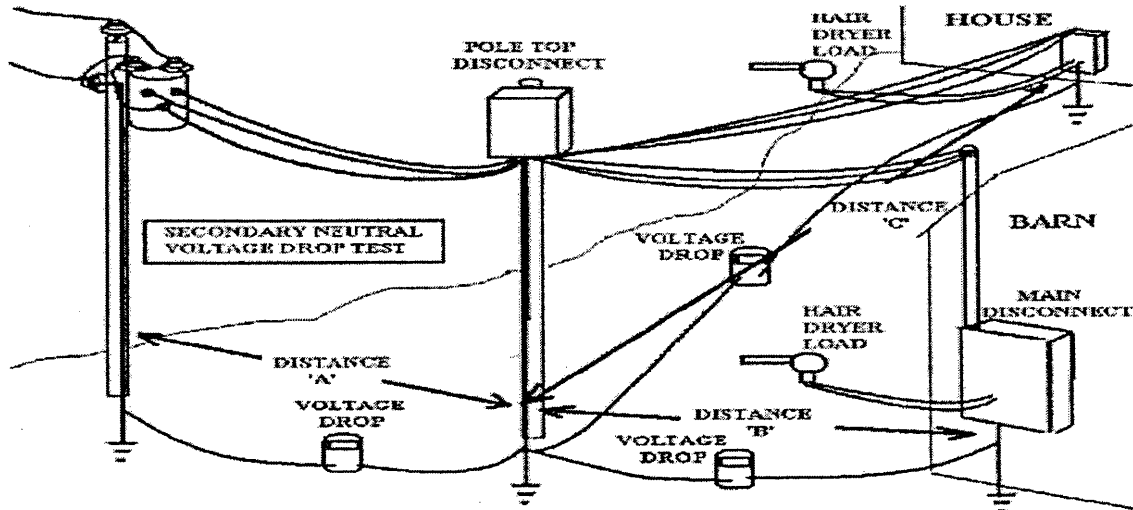


Figure 5, Secondary Neutral Voltage Drop Test Arrangement. (9-14-05)T

- 03. Data Collection.** The following data shall be collected for each secondary neutral tested: (9-14-05)T
- a. Gauge and type of neutral wire. (9-14-05)T
  - b. Length of neutral wire. (9-14-05)T
  - c. Neutral current,  $I_{sn}$ . (9-14-05)T
  - d. Voltage drop ( $V_{DropM}$ ) between both ends of the secondary neutral being tested. (9-14-05)T
  - e. Cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ) at the same points used in the forty-eight (48) hour test. (9-14-05)T
  - f. Primary neutral at the transformer to reference ground voltage,  $V_p$ . (9-14-05)T
  - g. Secondary neutral to reference ground voltage,  $V_s$ . (9-14-05)T

**04. Measurements.** The three (3) voltages ( $V_{cc}$ ,  $V_p$  and  $V_s$ ) shall be measured with the proxy load “off” and “on.” Calculated expected voltage drops ( $V_{DropC}$ ) (see Appendix 4) shall be compared with measured voltage drops ( $V_{DropM}$ ). If the measured and calculated voltage drops differ significantly, further investigation shall be undertaken to determine the source of additional voltage drop within the circuit. Neutral current shall be measured and recorded with the proxy load on ( $I_{sn}$ ). (9-14-05)T

**05. Recording the Data.** Any person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 4. (9-14-05)T

**077. TEST 5 -- THE LOAD BOX TEST (RULE 77).**

**01. Purpose.** This test is used to determine the extent to which the primary system contributes to stray current or voltage at cow contact points. For dairies with three (3) phase balanced primary service, the service provider shall perform Steps One and Two in Paragraph 077.02.b. below. (9-14-05)T

**02. Conducting the Load Box Test.** This test shall be performed at the same time of day as the time(s) of highest cow contact voltage found in the forty-eight (48) hour test. During this test, voltage and current shall be measured and recorded at the points indicated in Figure 6. (9-14-05)T

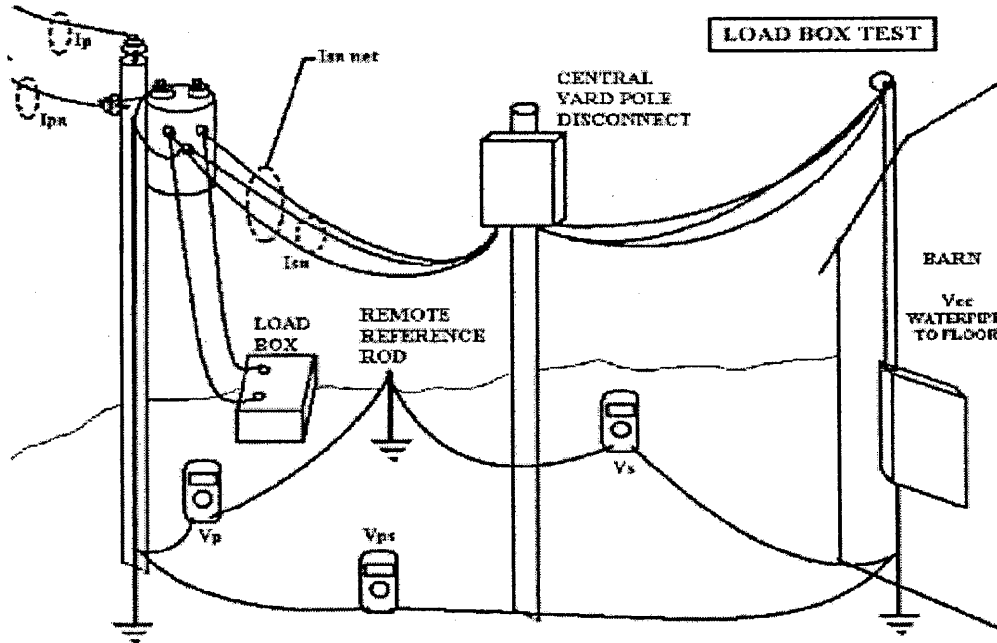


Figure 6, Load Box Test. (9-14-05)T

- a. The load box test requires the recording of eight (8) data points during each of the five (5) test steps. The eight (8) data points that shall be measured or calculated and recorded for each step are: (9-14-05)T
  - i. Primary line to neutral voltage,  $V_{pri}$ . (9-14-05)T
  - ii. Load Box Current,  $I_{lb}$ . (9-14-05)T
  - iii. Voltage at load box connection to secondary system,  $V_{lb}$ . (9-14-05)T
  - iv. Calculate transformer current  $I_p$  using  $I_p = \frac{I_{lb} \times V_{lb}}{V_{pri}}$ . (9-14-05)T
  - v. Voltage from primary neutral at the transformer to remote reference ground rod,  $V_p$ . (9-14-05)T
  - vi. Voltage from secondary neutral in the service panel serving the area of the cow contact to remote reference ground rod,  $V_s$ . (9-14-05)T
  - vii. Voltage from primary neutral at the transformer to secondary neutral at the service panel serving the area of cow contact,  $V_{ps}$ . (9-14-05)T
  - viii. Cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ) at the same point(s) used in the forty-eight (48) hour test. (9-14-05)T

**b.** Except for dairies with three (3) phase balanced primary service, the following five (5) test steps shall each be conducted for at least two (2) minutes: (9-14-05)T

**i.** Step One: The load box shall be de-energized, the dairy shall remain “on,” and the data shall be recorded. (9-14-05)T

**ii.** Step Two: The load box shall be de-energized, the dairy shut “off,” and the data shall be recorded. (9-14-05)T

**iii.** Step Three: The load box shall be set to half load, the dairy shut “off,” and the data shall be recorded. (9-14-05)T

**iv.** Step Four: The load box shall be set to full load, the dairy shut “off,” and the data shall be recorded. (9-14-05)T

**v.** Step Five: The load box shall be set to full load, the dairy shall be turned “on,” and the data shall be recorded. (9-14-05)T

**03. Calculating the K Factor.** The K factor is a calculated ratio ( $V_{cc}/V_s$ ). The K factor should be less than one (1) because  $V_{cc}$  (cow contact voltage) should be less than  $V_s$  (the dairy ground to reference ground voltage). If the K factor is greater than one (1), then there is contribution to  $V_{cc}$  from sources other than  $V_s$ . (9-14-05)T

**04. Recording the Data.** The person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 5. (9-14-05)T

**078. TEST 6 -- SIGNATURE TEST (RULE 78).**

**01. Purpose.** This test is used to determine the contribution to stray current or voltage of individual pieces of equipment operating on the dairy. The test is best performed when there is minimal farm electrical activity. (9-14-05)T

**02. Conducting the Signature Test.** During this test, individual pieces of major current drawing equipment shall be started and stopped. The effects of starting, operating, and stopping each piece of equipment shall be measured and recorded for a period of operation of at least fifteen (15) seconds. The person conducting the test shall identify and record the equipment being tested and record the specific times that the equipment was started and stopped. A digitizing data recorder with averaging capability shall be used to measure and record the required electrical data. These measurements shall be taken at the same locations at the dairy where measurements were taken for the purpose of the load box test and forty-eight (48) hour test. (9-14-05)T

**a.** Voltage from primary neutral at the transformer to remote reference ground rod,  $V_p$ . (9-14-05)T

**b.** Secondary neutral at the service panel serving the area of cow contact to remote reference ground voltage,  $V_s$ . (9-14-05)T

**c.** Primary neutral voltage drop ( $V_{ps}$ ) from the location of connection for  $V_p$  to secondary neutral voltage at the location of the connection for  $V_s$ . (9-14-05)T

**d.** Cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ) at the preselected point. (9-14-05)T

**03. Recording the Data.** All of the data gathered by the recording equipment during the signature test, including transients shall be downloaded and retained with the records of the investigation. In addition, the steady state data shall be summarized in the investigation report. The recorded data shall be made available to the dairy producer or utility upon request. The location of all test point(s) shall be recorded on the form in Appendix 6. A plot of the voltage versus time may be substituted for the recording of measured values on Appendix 6. (9-14-05)T

079. -- 080. (RESERVED).

**RULES 81 THROUGH 90 – ANALYSIS AND REPORTING THE DATA**

**081. ANALYZING THE COLLECTED DATA (RULE 81).**

**01. Cow Contact Points.** Examine the data recorded for the forty-eight (48) hour test in Appendix 2 and determine the highest steady state value of cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ). Determine the value of primary neutral to reference voltage ( $V_p$ ) that was present for the highest cow contact value. Record these values on the data sheet of Appendix 7. These values shall be identified as “test cow contact voltage or current” ( $V_{cc}$  48hr or  $I_{cc}$  48hr) and “primary neutral to reference voltage at time of maximum cow contact voltage or current” ( $V_p$  48hr). The three (3) data sets created from the values are: (9-14-05)T

**a.** The primary to reference ground voltage and the cow contact voltage or current measured during the load box test (Appendix 5) with the farm power “off” and the load box “off” shall be recorded on the data sheet of Appendix 7 as  $V_p$  OFF and either  $V_{cc}$  OFF or  $I_{cc}$  OFF. (9-14-05)T

**b.** The primary to reference ground voltage and the cow contact voltage or current measured with the load box set at one half load shall be recorded on the data sheet of Appendix 7 as  $V_p$  HALF LOAD and either  $V_{cc}$  HALF LOAD or  $I_{cc}$  HALF LOAD. (9-14-05)T

**c.** The primary to reference ground voltage and the cow contact voltage or current measured with the load box at maximum shall be recorded on the data sheet of Appendix 7 as  $V_p$  FULL LOAD and either  $V_{cc}$  FULL LOAD or  $I_{cc}$  FULL LOAD. (9-14-05)T

**02. Contributions to Stray Voltage or Current for Single Phase Dairies.** The utility contribution to cow contact voltage or current shall be determined using the following formula. Compare the values determined to the preventive action level (PAL). (9-14-05)T

Utility contribution to  
cow contact voltage = 
$$\frac{V_p 48 - V_p \text{ HALF}}{V_p \text{ FULL} - V_p \text{ HALF}} \times (V_{cc} \text{ FULL} - V_{cc} \text{ HALF}) + V_{cc} \text{ HALF}$$
 (9-14-05)T

or

Utility contribution to  
cow contact current = 
$$\frac{V_p 48 - V_p \text{ HALF}}{V_p \text{ FULL} - V_p \text{ HALF}} \times (I_{cc} \text{ FULL} - I_{cc} \text{ HALF}) + I_{cc} \text{ HALF}$$
 (9-14-05)T

**03. Contributions to Stray Voltage or Current for Three Phase Dairies.** The utility contribution to cow contact voltage or current for dairies with three (3) phase balanced load service, shall be determined by directly using the results of the load box test results for Step 1 and Step 2 as specified in Paragraph 077.02.b. (9-14-05)T

**a.** The  $V_{cc}$  measured during Step 1 of the load box with the load box “off” and the dairy “on” will be the total  $V_{cc}$ . (9-14-05)T

**b.** The  $V_{cc}$  measured during Step 2 of the load box test with the load box “off” and the dairy “off” is the contribution to  $V_{cc}$  from the utility,  $V_{cc} \text{ utility}$ . (9-14-05)T

**c.** The contribution to  $V_{cc}$  by the dairy is the difference between  $V_{cc}$  and  $V_{cc} \text{ utility}$ ,  $V_{cc} \text{ dairy} = V_{cc} - V_{cc} \text{ utility}$ . (9-14-05)T

**082. REPORTING (RULE 82).**

Within a reasonable period of time after completion of any tests required to be performed by the utility under these rules, a qualified analyst shall prepare a written report. The report shall include a summary of the tests performed, a copy of the sketch or drawing of the dairy prepared pursuant to Section 072, all of the data or results obtained from the tests, and an analysis of the data or results obtained from the tests. If remediation was required under these rules, the report shall specify the actions taken or to be taken. The utility shall provide a copy of the written report to the dairy producer. (9-14-05)T

**083. -- 090. (RESERVED).**

**RULES 91 THROUGH 92 -- REMEDIAL ACTIONS AND COMMISSION PROCEEDINGS**

**091. REMEDIATION (RULE 91).**

**01. Utility System.** If the utility is required to conduct remediation, it shall commence such remediation within five (5) business days. The utility shall diligently pursue to completion remedial procedures which shall reduce, and are reasonably likely to sustain, that portion of the stray current or voltage attributable to the utility's distribution system to a level equal to or less than fifty percent (50%) of the preventive action level (PAL). This may include addressing other off-dairy sources. (9-14-05)T

**02. Other Dairies, Farms and Industrial Sites.** If a utility's contribution to stray voltage exceeds fifty percent (50%) of the preventive action level (PAL) and the utility determines that another customer is a significant contributing source of stray voltage, the utility shall notify both the dairy and the other customer in writing. (9-14-05)T

**092. COMMISSION PROCEEDINGS (RULE 92).**

**01. Filing with the Commission.** All petitions seeking relief under Section 61-805, Idaho Code, shall be filed with the Commission Secretary pursuant to Section 005. Petitions shall conform to IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Section 053. The petitioner shall file an original and five (5) copies of the petition. (9-14-05)T

**02. Contents of Petition.** The petition shall conform to IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Section 053. The petition shall contain background information, the date the notice was filed with the serving utility, a description of the alleged incident(s) of non-compliance with the Stray Current and Voltage Remediation Act, and the remediation actions (if any) undertaken by either the utility or the dairy. A copy of the utility's entire stray voltage report shall accompany the petition. (9-14-05)T

**093. -- 999. (RESERVED).**

**APPENDIX 1**

**TEST 1 – COW CONTACT POINT DATA FORM**

Dairy Name: \_\_\_\_\_

Date: \_\_\_\_\_

Dairy Location: \_\_\_\_\_

Shunt Resistor: \_\_\_\_\_ ohm ( Rshunt )

Item #	Contact Point Identifier	Contact Point Description	Voltage Measured w/o Shunt Resistor Voc	Voltage Current Measured w/Shunt Resistor Vcc	Source Resistance Calculated Rsource	Comments
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						

**TEST 1 – COW CONTACT POINT DATA FORM INSTRUCTIONS**

1. The total information provided by the contact point identification, the contact point description, and the dairy sketch(es) shall be sufficient to allow a third party to accurately repeat the test locating the correct cow contact points for a specific contact voltage.
2. The voltages measured in this test shall be determined using the same instrument(s) for both data points. One reading shall be taken immediately following the other using the same meter.
3. The actual source resistance is calculated from the known shunt resistance and the measured voltage.
4. Record comments as appropriate or necessary.

$$R_{\text{source}} = \frac{V_{\text{OC}} - V_{\text{shunt}}}{V_{\text{shunt}}} \times R_{\text{shunt}}$$

or

$$R_{\text{source}} = \frac{V_{\text{OC}}}{I_{\text{shunt}}} - R_{\text{shunt}}$$



**APPENDIX 2**

**TEST 2 – “48-HOUR” TEST REPORT FORM 1**

Customer Name: \_\_\_\_\_

Date: \_\_\_\_\_

Start Time: \_\_\_\_\_

Stop Time: \_\_\_\_\_

Contact Point Identifier Number: \_\_\_\_\_

Hour	Time of Occurrence (Hr, Min) of Highest Steady State Vcc or Icc	Voltage Across (Current Thru) Rshunt Vcc or Icc		Primary Neutral to Referenced Ground Vp	Secondary Neutral to Reference Ground Vs	Primary to Secondary Voltage Drop Vps	Duration Steady State Vcc or Icc Exceeded PAL in One Hour Period
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							

**TEST 2 - "48-HOUR" TEST REPORT FORM 1**  
**INSTRUCTIONS**

Record the following data with a long term digitizing data recorder or its equivalent for a minimum of 48 hours as specified in Rule 074:

- a.** Voltage from primary neutral to remote reference ground,  $V_p$ , at transformer.
- b.** Secondary neutral to remote reference ground voltage,  $V_s$ , at the electrical panel serving the area for the  $V_{cc}$  or  $I_{cc}$  selected.
- c.** Primary neutral to secondary neutral voltage,  $V_{ps}$ , between points of connection for  $V_p$  and  $V_s$ .
- d.** Steady state cow contact voltage or current at the preselected point(s) with the highest cow contact voltage or current recorded in Test 1,  $V_{cc}$  or  $I_{cc}$ .

Steady State Data:

Steady state data recorded during the 48-hour test shall be presented in tabular format on Form 1 as described below, or it shall be presented graphically. Graphical presentation shall include a time scale for the entire recording period and a clear indication of the steady state readings of  $V_{cc}$  or  $I_{cc}$ ,  $V_p$ ,  $V_s$  and  $V_{ps}$  for the recording intervals. The scale(s) shall be such that steady state cow contact voltages or currents at or above the PAL are easily identifiable.

If using tabular format, the analyst shall enter data in the table for each hour of the 48 hours of the test in chronological order. The data recorded in the table shall include: the specific time that the highest steady state value of  $V_{cc}$  or  $I_{cc}$  was recorded in that hour; all four corresponding data points recorded at that time ( $V_p$ ,  $V_s$ ,  $V_{ps}$  and  $V_{cc}$  or  $I_{cc}$ ), and the total time during the hour that the steady state  $V_{cc}$  or  $I_{cc}$  exceeded the PAL.

**TEST 2 – REPORT FORM 2**  
**SUPPLEMENTAL DATA FOR FARM OWNER**  
**TRANSIENT DEVIATIONS FOUND DURING “48-HOUR” TEST**

Customer Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 Start Time: \_\_\_\_\_ Stop Time: \_\_\_\_\_  
 Contact Point Identifier Number: \_\_\_\_\_

Hour	Time of Highest Peak Vcc (lcc)	Highest Voltage Recorded	Total Number Transient Deviations	No. Transient Deviations Exceeding 1.0 Volts with Peak Magnitude Greater than 1.0 Volts (2.0 milliamps)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				

Transient deviations occur due to electrical events such as motor starts. The PAL level is 1.0 volt for steady state voltages but PAL does not apply to transient voltage deviations.

**TEST 2 - "48-HOUR" TEST REPORT FORM 2**  
**INSTRUCTIONS**

Recording Transient Data:

For the purpose of identifying and reporting transient deviations, a transient deviation occurs when the recorded maximum Vcc or Icc in a recording interval exceeds two hundred percent (200%) of the steady state Vcc or Icc recording during the same recording interval.

Transient data recorded during the 48-hour test shall be presented in tabular format on the "48-hour Test – Transient Deviation Data" form as described below, or it shall be presented graphically. Graphical presentation shall include a time scale for the entire recording period and a clear indication of the maximum Vcc or Icc recorded for the recording intervals. The scale(s) shall be such that Vcc transient deviations at or above two (2.0) volts, or Icc transient deviations at or above four (4) milliamps, are easily identifiable.

If using a tabular format, the analyst shall enter data in the table for each hour of the 48 hours of the test in chronological order. The data recorded in the table shall include; the specific time during the hour that the transient deviation in Vcc or Icc with the largest peak magnitude occurred, the corresponding peak Vcc or Icc, the total number of transient deviations recorded in that hour, and the total number of transient deviations recorded in that hour with a peak magnitude of two (2) or more volts for Vcc or four (4) or more milliamps for Icc.

**APPENDIX 3**

**TEST 3 – PRIMARY PROFILE DATA FORM**

Dairy Name: \_\_\_\_\_

Dairy Location: \_\_\_\_\_

Date: \_\_\_\_\_

Item	Pole Location & Identification	Time	Current Primary Ground I <sub>pg</sub>	Resistance Primary Ground R <sub>pg</sub>	Calculated Voltage (primary neutral-to-earth) V <sub>pne</sub>	Measured Voltage (primary neutral-to-earth) V <sub>pne</sub>	
#			(mA)	(Ohm)	(V)	(V)	Notes
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							

Note: If V<sub>pne</sub> is measured it is not required to measure I<sub>pg</sub> and R<sub>pg</sub> for determination of the calculated V<sub>pne</sub>. In cases where V<sub>pne</sub> is calculated the following formula is used:

$$\text{Calculated } V_{pne} = (I_{pg} \times R_{pg}) / 1000$$

**APPENDIX 4**

**TEST 4 – SECONDARY NEUTRAL VOLTAGE DROP TEST**

Test Performed by: \_\_\_\_\_ Date: \_\_\_\_\_

Customer Name: \_\_\_\_\_

(All other farm loads must be off. Use only one load per circuit.)

	<b>SITE:</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
A	Site Location						Units
B	Circuit Neutral Wire Gauge						AWG
C	Circuit Neutral AL or CU						
D	Wire length (in 100's ft.)						100 ft.
E	$\Omega$ /100 ft.						$\Omega$
F	Total Resistance (D times E)						$\Omega$
G	Measured Neutral Current, Isn						A
H	Calculated Voltage Drop, $V_{DropC}$ (F times G)						V
I	Measured Voltage Drop, $V_{DropM}$						V
J	Percent difference $[(H-I)/H]*100$						%
	Vp load "off"						V
	Vs load "off"						V
	Vcc load "off"						V
	Icc load "off," if measured						
	Vp load "on"						V
	Vs load "on"						V
	Vcc load "on"						V
	Icc load "on," if measured						

**TEST 4 – SECONDARY NEUTRAL VOLTAGE DROP TEST**  
**INSTRUCTIONS**

**ITEM**

**EXPLANATION**

A-J Describe load site location, neutral wire gauge, neutral wire length (in 100s of feet), resistance per 100 feet (see table below), measured neutral current, measured voltage drop, Vp, Vs and Vcc or Icc for load “off” and load “on.”

Voltage drop is measured from end-to-end of the secondary neutral being tested and the neutral bus of the building being tested. Electrical power to all buildings shall be turned-off during this test except at the building being tested. Locations of Vp, Vs and Vcc or Icc are the same as measured during the previous tests.

Calculate the total circuit resistance. Calculate using Ohm’s Law, the expected neutral voltage drop. Calculate the absolute value of the difference and divide by the expected voltage drop. Express this as a percentage. If the two values (measured voltage drop and calculated voltage drop) do not agree, further investigation is warranted to discover the reason for the discrepancy.

**Resistance Chart (ohm per 100 feet)**

**Multi-conductor Cables at 68 Degrees F.**

<b>MATERIAL</b>		
<b>GAUGE</b>	<b>AL</b>	<b>CU</b>
14	0.423	0.257
12	0.265	0.162
10	0.166	0.102
8	0.104	0.064
6	0.066	0.040
4	0.042	0.025
2	0.026	0.016
1	0.021	0.013
1/0	0.016	0.010
2/0	0.013	0.008
3/0	0.010	0.007
4/0	0.008	0.005

**APPENDIX 5**

**TEST 5 – LOAD BOX TEST**

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Dairy: \_\_\_\_\_

	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
	<b>FARM ON</b>	<b>FARM OFF</b>	<b>FARM OFF</b>	<b>FARM OFF</b>	<b>FARM ON</b>
Condition	Load Box Off	Load Box Off	Load Box Half On	Load Box Full On	Load Box Full On
Time:					
Vp	V	V	V	V	V
Vs	V	V	V	V	V
Vps	V	V	V	V	V
Vcc	V	V	V	V	V
Icc	A	A	A	A	A

Load Box Current (I<sub>lb</sub>): Half Load \_\_\_ A Full Load \_\_\_ A

Load Box Voltage (V<sub>lb</sub>): Half Load \_\_\_ V Full Load \_\_\_ V

Primary Nominal Voltage Phase to Neutral (V<sub>pri</sub>): \_\_\_\_\_ V

Transformer Current Due to Load Box ( I<sub>XFMR</sub> ): Half Load \_\_\_ A Full Load \_\_\_ A

$$I_p = \frac{I_{lb} \times V_{lb}}{V_{pri}}$$

K-Factor for Cow Contact Point \_\_\_\_\_

$$K = \frac{V_{cc}}{V_s}, \text{ as recorded in Step 4.}$$



**TEST 5 - LOAD BOX TEST**  
**INSTRUCTIONS**

Note 1: Testing may be accomplished by a single 18/25 kW load box or a dual element 9/18 or 12.5/25 kW load box. The difference between full load and half load measurements is used in most calculations.

Note 2: If the dairy is found in an isolated condition, two load box tests must be performed: an isolated test and a non-isolated test.

Note 3: If the dairy is served by a three-phase system, measure and record only the dairy-off, load box off column and the dairy-on, load box off column or test only one phase of the three.

**ITEM EXPLANATION**

#

- 1 Enter date and customer name.
- 2 Attach load box to the 240-volt secondary side of transformer. Turn on load box and measure current and voltage and record on data sheet, Appendix 5.
- 3 Conduct load box test and for each step measure and record  $V_p$ ,  $V_s$ ,  $V_{ps}$  and  $V_{cc}$  or  $I_{cc}$ . Each step shall be maintained for approximately two minutes with the highest reading during that time interval recorded.
  - Step 1 Farm power is "on" with load box "off"
  - Step 2 Farm power is "off" with load box "off"
  - Step 3 Farm power is "off" with load box "on" at half load
  - Step 4 Farm power is "off" with load box "on" at full load
  - Step 5 Farm power is "on" with load box "on" full load
- 4 Remove load box and restore normal power to the farm.

**APPENDIX 6**

**TEST 6 – EQUIPMENT SIGNATURE TEST FORM**

Dairy Name: \_\_\_\_\_

Date: \_\_\_\_\_

Location: \_\_\_\_\_

Descr. of Load	Location of Load	Load V	Load kW or HP	Load Phase 1 or 3	Load On						Load Off					
					Time	Vp	Vs	Vps	Vcc	Icc	Time	Vp	Vs	Vps	Vcc	Icc
1																
2																
3																
4																
5																
6																
7																
8																
9																
10																
11																
12																
13																
14																
15																
16																
17																
18																

**TEST 6 - EQUIPMENT SIGNATURE TEST FORM**  
**INSTRUCTIONS**

**ITEM INSTRUCTIONS**

- 1 Enter the date the test is performed.
- 2 Enter the name of the dairy.
- 3 Enter the description of the load for which the signature will be recorded.
- 4 Provide a complete description of the load. Provide voltage, horsepower or kilowatt rating, if known.
- 5 Note the time of turn-on and the time of turn-off. Equipment should be “on” for a period of not less than 15 seconds. If equipment is found in the “on” condition, turn it “off” then turn it back “on.” If equipment cannot be manually cycled then record data at the next “on” – “off” cycle.
- 6 Repeat for all major circuits and pieces of equipment (both 120 volt and 240 volt). Some equipment may normally be operated in sequence. Start each piece of equipment at 15-second intervals until all are running, then turn off in reverse order at 15-second intervals.
- 7 If data is to be provided graphically, only load description and time are required to be provided on Test 6 data sheet. Operation of each piece of equipment shall be indicated on the graphical data sheet(s).

**APPENDIX 7**

**PREVENTIVE ACTION LEVEL RESULTS**

Enter the highest value of cow contact voltage or current that occurred during the 48-hour test from Appendix 2, and corresponding primary to reference ground voltage.

Vp48hr : \_\_\_\_\_ V    Vcc48hr : \_\_\_\_\_ V    or    Icc 48hr : \_\_\_\_\_ A

Enter the value of cow contact voltage or current and corresponding primary to reference ground voltage that was present during the load box test with the farm power off and the load box off.

Vp OFF : \_\_\_\_\_ V    Vcc OFF : \_\_\_\_\_ V    or    Icc OFF : \_\_\_\_\_ A

Enter the value of cow contact voltage or current and corresponding primary to reference ground voltage that was present during the load box test with the farm power off and the load box set at half load.

Vp HALF LOAD : \_\_\_\_\_ V    Vcc HALF LOAD : \_\_\_\_\_ V    or    Icc HALF LOAD : \_\_\_\_\_ A

Enter the value of cow contact voltage or current and corresponding primary to reference ground voltage that was present during the load box test with the farm power off and the load box at maximum.

Vp FULL LOAD : \_\_\_\_\_ V    Vcc FULL LOAD : \_\_\_\_\_ V    or    Icc FULL LOAD : \_\_\_\_\_ A

Calculations:

Utility Contribution to

$$\text{Cow Contact Voltage} = \frac{Vp_{48hr} - Vp_{HALF}}{Vp_{FULL} - Vp_{HALF}} \times (Vcc_{FULL} - Vcc_{HALF}) + Vcc_{HALF}$$

Utility contribution to cow contact voltage = \_\_\_\_\_ V

Utility contribution to cow contact voltage as a percentage of Vcc 48hr = \_\_\_\_\_ %

Utility contribution to cow contact voltage as a percentage of PAL = \_\_\_\_\_ %

Utility Contribution to

$$\text{Cow Contact Current} = \frac{Vp_{48hr} - Vp_{HALF}}{Vp_{FULL} - Vp_{HALF}} \times (Icc_{FULL} - Icc_{HALF}) + Icc_{HALF}$$

Utility contribution to cow contact current = \_\_\_\_\_ mA (milliamps)

Utility contribution to cow contact current as a percentage of Icc 48hr = \_\_\_\_\_ %

Utility contribution to cow contact current as a percentage of the PAL = \_\_\_\_\_ %

See Section 071.02 for required actions based on these results.

## **IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

### **38.06.01 - RULES GOVERNING THE IDAHO EMERGENCY COMMUNICATIONS COMMISSION**

**DOCKET NO. 38-0601-0401**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 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) 31-4816(9), 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 Emergency Communications Commission ("Commission") was established in the Department of Administration, effective July 1, 2004, pursuant to Section 31-4815, Idaho Code. The Commission has rulemaking authority pursuant to Section 31-4816(7), Idaho Code. Pursuant to Section 31-4817, Idaho Code, the Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. Mediation pursuant to Section 31-4817, Idaho Code, is a condition precedent to local government agencies initiating other legal proceedings. These rules will govern the mediation process.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the December 1, 2004 Idaho Administrative Bulletin, Vol. 04-12, pages 79 through 82.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfoy, Deputy Attorney General, at (208) 332-1832.

DATED this 5th day of August, 2005.

Joanna L. Guilfoy, Deputy Attorney General  
Department of Administration  
650 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0003  
Telephone: (208) 332-1832 / Fax: (208) 334-2307

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### **IDAPA 38, TITLE 06, CHAPTER 01**

#### **RULES GOVERNING THE IDAHO EMERGENCY COMMUNICATIONS 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 04-12, December 1, 2004, pages 79 through 82.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.**

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

**38.06.02 - RULES GOVERNING THE IDAHO EMERGENCY  
COMMUNICATIONS COMMISSION GRANTS**

**DOCKET NO. 38-0602-0501 (NEW CHAPTER)**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 31-4816(9).

**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 September 21, 2005.

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:

Pursuant to Section 31-4818, Idaho Code, the Commission is directed to distribute moneys in the Idaho Emergency Communications Fund to eligible entities. These rules will govern the grant process.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There is no fee.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 5th day of August, 2005.

Joanna L. Guilfooy  
Deputy Attorney General  
Department of Administration  
650 W. State Street  
P.O. Box 83720  
Boise, Idaho 83720-0003  
Telephone: (208) 332-1832  
Fax: (208) 334-2307

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0602-0501**

IDAPA 38  
TITLE 06  
CHAPTER 02

38.06.02 - RULES GOVERNING THE IDAHO EMERGENCY  
COMMUNICATIONS COMMISSION GRANTS

**000. LEGAL AUTHORITY.**

The following rules are promulgated in accordance with Section 31-4816(9), Idaho Code, by the Commission.

( )

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 38.06.02, "Rules Governing the Idaho Emergency Communications Commission Grants".

( )

**02. Scope.** Pursuant to Section 31-4818, Idaho Code, the Commission is directed to distribute moneys in the Idaho Emergency Communications Fund to eligible entities. These rules will govern the grant process.

( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Commission may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this Commission.

( )

**003. ADMINISTRATIVE APPEALS.**

This chapter does not provide for administrative appeals of the procedures set forth in this chapter.

( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter.

( )

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

The Idaho Emergency Communications Commission is located in the Department of Administration at 650 W. State Street, Boise, Idaho, 83720-0003. The Commission's mailing address is P.O. Box 83720, Boise, Idaho 83720-0003. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code).

( )

**007. -- 010. (RESERVED).**

**011. DEFINITIONS.**

**01. Applicant.** A Consolidated Emergency Communication Center submitting a grant application.

( )

**02. Commission.** The Idaho Emergency Communications Commission as established within the Department of Administration by Section 31-4815(1), Idaho Code.

( )

**03. Consolidated Emergency Communication Center.** A governmental or multi-governmental organization authorized to collect emergency communication fees in accordance with Title 31, Chapter 48, Idaho Code.

( )

**04. Emergency Communications Grant Fund (ECGF).** The portion of the Fund made available

annually for grant disbursement. ( )

**05. Fund.** The Idaho Emergency Communications Fund established by Section 31-4818, Idaho Code. ( )

**06. Grant Cycle.** The period between July 1 through June 30 for grant application distribution, submission, award notice and disbursement in accordance with dates established in Section 021 of these rules. ( )

**07. Taxing District.** A fire protection district created pursuant to Section 31-1402, Idaho Code, an ambulance district created pursuant to Section 31-3901, Idaho Code, or an ambulance service district created pursuant to Section 31-3908, Idaho Code. ( )

**012. -- 015. (RESERVED).**

**016. GRANT ADMINISTRATION.**

**01. Emergency Communications Grant Fund Source.** The moneys that may be available through the ECGF are from the emergency communications fees placed in the Fund pursuant to Section 31-4818, Idaho Code. ( )

**02. Alternate Emergency Communications Grant Fund Sources.** Grants, donations, gifts, and revenues from other sources may augment the ECGF amount available when any limitations or requirements related to the use of such revenues are consistent with these rules. ( )

**03. Other Emergency Communications Grants.** The Commission may secure grants from federal, foundation, or other sources. When these sources place requirements or restrictions that are contrary to these rules, the Commission may establish a separate application, disbursement, or documentation program as appropriate. ( )

**04. Emergency Communications Fund Grant.** The amount of funds available through ECGF will be determined annually by the Commission in accordance with Section 31-4818, Idaho Code. ( )

**017. -- 020. (RESERVED).**

**021. GRANT CYCLE.**

**01. Application Availability.** The Commission shall make an application and guidance available no later than June 1 of each year. ( )

**02. Application Period.** The Applicant shall have until July 31 to complete and submit the application to the Commission. ( )

**03. Application Evaluation Period.** Prior to September 15, the Commission and, if applicable, a grant subcommittee, shall evaluate the applications received. ( )

**04. Award Notification.** Prior to October 31, the Commission shall issue notification to every Applicant regarding the disposition of its grant request. ( )

**05. Grant Disbursement.** Grant disbursement shall occur prior to April 30. ( )

**06. Deadline for Return of Funds.** All unused grant funds must be returned by the Applicant no later than May 31. ( )

**022. -- 025. (RESERVED).**

**026. APPLICATION REQUIRED.**



A completed application must be submitted by the Applicant on or before the conclusion of the application period specified in Section 021 of these rules in order to be considered during the Grant Cycle. ( )

**01. Application Frequency.** Only one (1) application per Consolidated Emergency Communication Center may be filed in any Grant Cycle. ( )

**02. Required Information.** The Applicant must provide the Commission with information, including: ( )

- a. Description of proposed equipment purchases; ( )
- b. Type, quantity, and purpose of similar equipment presently in use by the Applicant; ( )
- c. Age and condition of equipment being replaced, if applicable; ( )
- d. Documentation of one (1) or more vendor price quotes for all proposed equipment purchases; ( )
- e. Prioritization by the Applicant of equipment requested when the application requests funding for two (2) or more items; ( )
- f. Operating budget; ( )
- g. All funding sources and revenue generated by source; ( )
- h. Amount of emergency communications fee charged in accordance with Title 31, Chapter 48, Idaho Code; ( )
- i. Resident population within the Applicant response area in Idaho; ( )
- j. Migrant and tourist population within the Applicant response area in Idaho; ( )
- k. Number and name(s) of law enforcement, fire, and emergency medical service organizations for which the Consolidated Emergency Communications Center serves as the primary 911 agency; ( )
- l. County, city, or Taxing District endorsement(s); ( )
- m. Federal Tax Identification Number and DUNS Number (Dun & Bradstreet Data Universal Numbering System); ( )
- n. Contact person for verification of information; and ( )
- o. Narrative description of need. ( )

**03. Incomplete Application.** An application missing required information may be excluded from consideration for an award. ( )

**04. Application Purpose.** The grant application and any attachments submitted by the Applicant shall be the primary source of information for awarding a grant. ( )

**027. -- 030. (RESERVED).**

**031. AWARD ELIGIBILITY REQUIREMENTS.**  
To be considered for an award, an Applicant must meet all of the following requirements: ( )

**01. Consolidated Emergency Communication Center Services.** The Applicant must be a Consolidated Emergency Communication Center collecting emergency communications fees in accordance with

Title 31, Chapter 48, Idaho Code, delivering or seeking to deliver Consolidated Emergency Communication services. ( )

**02. Allowable Equipment.** Only equipment identified as allowable in the application guidance may be purchased with grant funds. ( )

**03. Applicable Law.** The Applicant must be in compliance and must warrant to continue to be in compliance with applicable law, including but not limited to Section 31-4804(5), Idaho Code. ( )

**04. Bid Laws.** The Applicant must agree to follow all applicable bid laws in the acquisition of any equipment paid for with grant funds. ( )

**05. Use of Funds.** The Applicant must agree to use any grant funds in strict compliance with the grant terms and agree to provide written documentation or proof of expenses to the Commission as required by the grant terms. ( )

**032. -- 035. (RESERVED).**

**036. AWARD RECOMMENDATION.**

If the Commission uses a grant subcommittee, the Commission shall request a recommendation from the grant subcommittee regarding the distribution of grant funds. ( )

**01. Assessment and Validation of Need.** The grant subcommittee, if used, shall review grant applications prior to making a recommendation about awards. ( )

**02. Contingency Awards.** The grant subcommittee, if used, may make contingency award recommendations in the event that other awards are withdrawn as described in Section 047 of these rules. ( )

**03. Commission Approval.** Whether or not a grant subcommittee is used, all awards must be approved by the Commission. If no grant subcommittee is used, the Commission shall review the applications and may make provision for contingency awards, as set forth above. ( )

**037. -- 040. (RESERVED).**

**041. CRITERIA FOR EQUIPMENT.**

The following weighted criteria shall be used to evaluate applications for equipment, with maximum weight available for each criterion as indicated. Greater value will be assigned to conditions indicating greater need for each criterion: ( )

**01. Applicant Equipment Age.** The age of similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating older equipment will be assigned greater value. ( )

**02. Applicant Equipment Availability.** Similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating lack of similar equipment will be assigned greater value; the application demonstrating no access to similar equipment will be assigned the maximum value. ( )

**03. Anticipated Use.** An estimate of the frequency of use for the equipment; value = fifteen (15). The application demonstrating a higher ratio of dispatch per capita will be assigned greater value. ( )

**04. Duration of Use.** An estimate of the length of time the equipment would be used, expressed as a mean time; value = fifteen (15). The application demonstrating a greater duration of use will be assigned greater value. ( )

**05. Fiscal Resource Base.** The proportion of operating budget supported by tax revenue; value = ten (10). The application demonstrating less revenue from taxes expressed as a percent of total revenue for the most recent year will be assigned greater value. ( )

**06. City, County and Taxing District Endorsement.** The proportion of Idaho cities, counties and Taxing Districts within which the Applicant's primary service area occurs that endorse the application; value = five (5). The application demonstrating a larger percent of endorsements will be assigned greater value. ( )

**07. Population.** The number of people residing in the Consolidated Emergency Communications Center's service area; value = five (5). The application demonstrating a greater number of people will be assigned greater value. ( )

**08. Square Mileage.** The area served by the Consolidated Emergency Communications Center; value = fifteen (15). The application demonstrating a greater square mileage will be assigned greater value. ( )

**09. Number of Law Enforcement, Fire and Emergency Medical Service Agencies Dispatched.** Value = ten (10). The application demonstrating a higher number of law enforcement, fire and emergency medical service agencies will be assigned greater value. ( )

**10. Narrative.** The need for and lack of availability of funds from other sources as documented by the Applicant; value = twenty (20). The application demonstrating a greater need for and lack of available funds will be assigned greater value. ( )

**042. -- 045. (RESERVED).**

**046. UNUSED GRANT FUNDS.**

All grant funds not expended for costs associated with the Applicant's award shall be returned by May 31 of the Grant Cycle. ( )

**047. WITHDRAWAL, DISCONTINUANCE, ASSIGNMENT.**

**01. Withdrawal.** Any Applicant may withdraw or forfeit an application at any time. ( )

**02. Ability to Compete.** The withdrawal of an application does not affect the Applicant's ability to reapply in a subsequent Grant Cycle. ( )

**03. Discontinuance.** The Commission may discontinue the grant award or approval process if any of the following occurs: ( )

**a.** The chief administrative official of the Applicant or his designee submits a notice of withdrawal in written form to the Commission. ( )

**b.** The Applicant does not provide required documentation during the award or approval process. ( )

**c.** The Applicant is determined to be out of compliance with any award eligibility requirements. ( )

**04. Right of Assignment.** The Applicant may not assign any award to another Applicant or another Consolidated Emergency Communications Center. ( )

**048. FRAUDULENT INFORMATION ON GRANT APPLICATION.**

Providing false information on any application or document submitted under these rules is grounds for declaring the Applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Commission. ( )

**049. -- 999. (RESERVED).**

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

### **39.02.41 - RULES GOVERNING PROVISIONS APPLICABLE TO FEES FOR SERVICES**

**DOCKET NO. 39-0241-0401**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 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) 49-201(1), 49-202(2), and 67-2510, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the December 1, 2004 Idaho Administrative Bulletin, Volume 04-12, pages 83 through 85.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ed Pemble, Driver Services Manager, 332-7830.

DATED this 3rd day of August, 2005.

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

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### **IDAPA 39, TITLE 02, CHAPTER 41**

#### **RULES GOVERNING PROVISIONS APPLICABLE TO FEES FOR SERVICES**

**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 04-12, December 1, 2004, 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 2006 Idaho State Legislature as a final rule.**

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

### **39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS**

**DOCKET NO. 39-0311-0501**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 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) 40-312 and 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 6, 2005 Idaho Administrative Bulletin, Volume 05-07, pages 66 through 68.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Frew, Commercial Vehicles Manager, 334-8809.

DATED this 3rd day of August, 2005.

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

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### **IDAPA 39, TITLE 03, CHAPTER 11**

#### **RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS**

**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 05-7, July 6, 2005, pages 66 through 68.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule**

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,**  
**MODULAR BUILDINGS, AND OFFICE TRAILERS**

**DOCKET NO. 39-0317-0401**

**NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 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) 40-312 and 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 3, 2004 Idaho Administrative Bulletin, Volume 04-11, pages 35 through 37.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Frew, Commercial Vehicles Manager, 334-8809.

DATED this 3rd day of August, 2005.

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

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**IDAPA 39, TITLE 03, CHAPTER 17**

**RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,**  
**MODULAR BUILDINGS, AND OFFICE TRAILERS**

**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 04-11, November 3, 2004, pages 35 through 37.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule**

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

### **39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY**

**DOCKET NO. 39-0345-0501**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 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 58-335A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 6, 2005 Idaho Administrative Bulletin, Volume 05-07, pages 69 through 72.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Leonard Hill, Right-of-Way Manager, 334-8520.

DATED this 3rd day of August, 2005.

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

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### **IDAPA 39, TITLE 03, CHAPTER 17**

#### **RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY**

**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 05-7, July 6, 2004, pages 69 through 72.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule**

# IDAPA 57 - SEXUAL OFFENDER CLASSIFICATION BOARD

## 57.01.01 - RULES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD

DOCKET NO. 57-0101-0501

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 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 September 21, 2005.

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:

An incorporated reference to the Practice Standards and Guidelines for the Association for the Treatment of Sexual Abusers is updated in Section 004.

Specialized training requirements for psychosexual evaluators are moved from Section 040 to new Section 041 for further definition and clarity. The training standard for initial certification is increased to 200 hours within an unlimited timeframe prior to application.

Consistent with statutory language and intent, Section 060, Certified Evaluator Application, is modified, to indicate that application fees are non-refundable, and specifying adult client evaluation reports are to be submitted with evaluator applications.

Section 150 is amended to include that an offender's refusal to participate in a polygraph examination during the evaluation conducted for violent sexual predator review will not be considered as failure to participate.

**FEE SUMMARY:** There is no increase in fees imposed with this rulemaking.

**FISCAL IMPACT:** There is no fiscal impact on general funds for this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed language addresses housekeeping issues and clarifies existing approved language. This rulemaking also corrects an oversight in the number of specialized training hours that are required for initial psychosexual evaluator certification.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kathy Baird, Management Assistant, at (208) 658-2149.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 1st day of August, 2005.

Kathy Baird, Management Assistant  
Sexual Offender Classification Board  
1299 N Orchard St Suite 110  
Boise, ID 83706  
(208) 658-2149 phone  
(208) 327-7102



**THE FOLLOWING IS THE TEXT OF DOCKET NO. 57-0101-0501**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference into these rules: (3-24-05)

**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. (3-24-05)

**02. “Association for the Treatment of Sexual Abusers Practice Standards and Guidelines for the Evaluation, Treatment and Management of Adult Male Sexual Abusers, 2005 Edition.”** This document is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005. ( )

**023. “Bylaws of the American Polygraph Association, 2004 Edition.”** This document is available from the American Polygraph Association National Office, PO Box 8037, Chattanooga, Tennessee 37414. (3-24-05)

~~**03. “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. (3-24-05)~~

**04. The Sexual Offender Classification Board’s “Required Format for Psychosexual Evaluation Reports, November 2004 Revision”.** This document is available from the board, and is posted on the board’s website. (3-24-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**040. CERTIFIED EVALUATOR QUALIFICATIONS.**

Each evaluator who performs an adult psychosexual evaluation pursuant to Sections 18-8316 and 18-8317, Idaho Code, must meet the qualifications as set forth in this section and be certified by the board. (3-24-05)

**01. Credential.** The credential of a certified evaluator 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, treatment, or both, of adult sexual offenders. (3-24-05)

**02. Educational and Professional Qualifications.** A certified evaluator must be: (3-24-05)

**a.** A licensed psychiatrist pursuant to Title 54, Chapter 18, Idaho Code; or (3-24-05)

**b.** A licensed masters or doctoral level mental health professional pursuant to Title 54, Chapters 23, 32, or 34, Idaho Code. (3-24-05)

**03. Licensure.** Idaho licensure is required pursuant to Section 18-8303, Idaho Code. A certified evaluator must maintain licensure by the appropriate Idaho licensing board for the duration of his evaluator certification. (3-24-05)

~~**04. Specialized Training.** (3-24-05)~~

~~**α.** For initial certification, the certified evaluator applicant must have attended forty (40) hours of formal conferences, symposia, or seminars in the following areas as relevant to the treatment and evaluation of adult sexual offenders, within the preceding two (2) years: (3-24-05)~~

- ~~i. Assessment and diagnosis of sexual offenders; (3-24-05)~~
- ~~ii. Psychometric and psychophysiological testing; (3-24-05)~~
- ~~iii. Psychopathology; (3-24-05)~~
- ~~iv. Sexual offender risk assessment; (3-24-05)~~
- ~~v. Counseling and psychotherapy; (3-24-05)~~
- ~~vi. Cognitive therapy; (3-24-05)~~
- ~~vii. Couples and family therapy; (3-24-05)~~
- ~~viii. Family reunification; (3-24-05)~~
- ~~ix. Pharmacological therapy; (3-24-05)~~
- ~~x. Relationship and social skills training; (3-24-05)~~
- ~~xi. Sexual offense relapse prevention; (3-24-05)~~
- ~~xii. Social support networks; and (3-24-05)~~
- ~~xiii. Victim awareness and empathy. (3-24-05)~~

**054. Experience Qualifications.** For initial certification, the certified evaluator applicant shall have at least two thousand (2000) hours of adult sexual offender treatment and evaluation experience within the preceding ten (10) years. The two thousand (2000) hours must include: (3-24-05)

- a.** At least two hundred fifty (250) hours of adult sexual offender evaluation experience; and (3-24-05)
- b.** At least two hundred fifty (250) hours of adult sexual offender treatment experience. (3-24-05)

~~**06. Continuing Education Requirement.** For certification renewal, the certified evaluator shall have attended forty (40) hours of formal conferences, symposia, or seminars relevant to the treatment and evaluation of adult sexual offenders within the preceding two (2) years. (3-24-05)~~

- ~~**a.** No more than ten (10) hours of continuing education units may be obtained from on-line educational sources during a two (2) year period. (3-24-05)~~
- ~~**b.** Any such on-line education must be from a recognized educational institution. (3-24-05)~~
- ~~**c.** Verification of program completion must be provided with the certification renewal application. (3-24-05)~~

~~**075. 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. (3-24-05)~~

**041. Specialized Training.**

**01. Initial Certification Requirements.** For initial certification, the certified evaluator applicant must have attended two hundred (200) cumulative hours of formal conferences, symposia, or seminars as outlined in Subsections 041.01.a. and 041.01.b. (\_\_\_\_)

- a.** One hundred (100) cumulative hours of training experience including all of the following topics: ( )
    - i.** Assessment and diagnosis of sexual offenders; ( )
    - ii.** Psychometric and psychophysiological testing; ( )
    - iii.** Psychopathology; and ( )
    - iv.** Sexual offender risk assessment. ( )
  - b.** One hundred (100) cumulative hours of training experience in any combination of topics identified in Subsections 041.01.b.i. through 041.01.b.ix. All such training experience must be directly relevant to the treatment and evaluation of adult sexual offenders. ( )
    - i.** Counseling and psychotherapy; ( )
    - ii.** Cognitive therapy; ( )
    - iii.** Couples and family therapy; ( )
    - iv.** Family reunification; ( )
    - v.** Pharmacological therapy; ( )
    - vi.** Relationship and social skills training; ( )
    - vii.** Sexual offense relapse prevention; ( )
    - viii.** Social support networks; and ( )
    - ix.** Victim awareness and empathy. ( )
  - 02.** **Continuing Education Requirement.** For certification renewal, the certified evaluator shall have attended forty (40) hours of formal conferences, symposia, or seminars relevant to the treatment and evaluation of adult sexual offenders within the preceding two (2) years. ( )
    - a.** No more than ten (10) hours of continuing education units may be obtained from on-line educational sources during a two (2) year period. ( )
    - b.** Any such on-line education must be from a recognized educational institution. ( )
    - c.** Verification of program completion must be provided with the certification renewal application. ( )
- ~~041~~042. -- 049. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**060. CERTIFIED EVALUATOR APPLICATION.**

- 01.** **Application for Initial Certification.** An applicant seeking certified evaluator status must submit:  
(3-24-05)

a. A completed application on forms provided by the board, and accompanied by documents indicated in Subsection 060.02 of this rule; and (3-24-05)

b. A ~~non-refundable~~ application fee of seventy-five dollars (\$75) payable to the board. (~~3-24-05~~)(\_\_\_\_)

**02. Documentation.** The certification application must be submitted to the board, accompanied by: (3-24-05)

a. Proof of professional licensure; (3-24-05)

b. The assurances and release form; (3-24-05)

c. Verification of educational, professional, and experience qualifications as established in Section 040 of these rules; and (3-24-05)

d. Copies of two (2) psychosexual evaluation reports on separate adult clients, completed by the applicant within the past year. These evaluations must have names and identifying characteristics redacted, and may not have been submitted previously to the board. (~~3-24-05~~)(\_\_\_\_)

**03. Certification Period, Posting Requirement, and Notification of Changes.** Evaluator certification is effective for one (1) calendar year from the date of issue printed on the certificate, unless the certification is suspended or revoked. The evaluator certification applies only to the person named therein and is not transferable. The board must be notified in writing within thirty (30) days of any change in the certified evaluator's business address, phone number, or both. (3-24-05)

**04. Expiration and Renewal of Certification.** No certification shall be renewed, except as follows: (3-24-05)

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. (3-24-05)

b. The renewal application must be accompanied by: (3-24-05)

i. Proof of professional licensure; (3-24-05)

ii. The assurances and release form; (3-24-05)

iii. Verification of continuing education participation as required in Subsection 040.05 of these rules; (3-24-05)

iv. A ~~non-refundable~~ application renewal fee of fifty dollars (\$50) payable to the board; and (~~3-24-05~~)(\_\_\_\_)

v. Copies of two (2) psychosexual evaluation reports on separate adult clients, completed by the applicant within the past year. These evaluations must have names and identifying characteristics redacted, and may not have been submitted previously to the board. (~~3-24-05~~)(\_\_\_\_)

c. An evaluator who has not renewed his certification shall be removed from the evaluator roster thirty (30) days after his certification has expired. (3-24-05)

d. An evaluator whose certification has been expired for less than one (1) year may reapply for certification by following the certification renewal process outlined in Subsection 060.04 of this rule. (3-24-05)

e. An evaluator whose certification has been expired for one (1) year or longer may reapply for certification by following the initial certification process outlined in Subsection 060.01 of this rule. (3-24-05)

- i. The board may require a written and verifiable plan for supervised practice by a supervisor approved by the board. (3-24-05)
- ii. The board shall determine the duration for supervised practice of a certified evaluator for certification purposes. (3-24-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. EVALUATION FOR VIOLENT SEXUAL PREDATOR REVIEW.**

The sexual offender referred to the board for VSP review shall be evaluated as set forth in Section 130 of these rules. (3-24-05)

**01. Evaluation Process.** (3-24-05)

- 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. (3-24-05)
- b. The sexual offender shall have an opportunity for input at the time of the psychosexual evaluation. (3-24-05)
- c. The board may ~~wave~~ request a polygraph examination. Refusal or declination to participate in a polygraph examination will not be considered as failure to cooperate as set forth in Section 151 of these rules. (3-24-05)( )

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0505

## NOTICE OF FINAL DECISION ON THE UPPER SNAKE ROCK TMDL MODIFICATION

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Upper Snake Rock Total Maximum Daily Load (TMDL) Modification to Account for the Aquaculture Wasteload Allocations to Fish Production Facilities and Conservation Hatcheries, Fish Processors, and Billingsley Creek Facilities.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Upper Snake Rock TMDL Modification. 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 Upper Snake Rock TMDL Modification (Hydrologic Unit Code 17040212) addresses three (3) TMDLs covering the Middle Snake River Watershed Management Plan (aka Mid-Snake TMDL), the Upper Snake Rock Watershed Management Plan (aka Upper Snake Rock TMDL), and the Billingsley Creek TMDL. Included are aquaculture wasteload allocations for 81 fish hatcheries, 4 fish processors, and 12 Billingsley Creek Fish Farms. 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 [http://www.deq.idaho.gov/water/data\\_reports/surface\\_water/tmdls/snake\\_rock\\_upper/upper\\_snake\\_rock.cfm#aquaculture](http://www.deq.idaho.gov/water/data_reports/surface_water/tmdls/snake_rock_upper/upper_snake_rock.cfm#aquaculture) or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 4th day of August, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0504

### 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:** A public hearing concerning this proposed rulemaking will be held as follows:

**October 11, 2005, 4 p.m.**  
**Department of Environmental Quality Conference Center**  
**1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) proposes to revise sections of the "Rules for the Control of Air Pollution in Idaho" (Rules) that pertain to emission registration requirements for Title V sources of air pollution as outlined in IDAPA 58.01.01.389.04. Changing the Registration Information rule eliminates a redundancy in Title V facility reporting of emissions. Currently, the regulated community completes separate annual emissions registration and emissions inventory projects. The data needed for each project is similar. This rule change will ensure that the one data type required is sufficient to cover both projects in one request. Therefore, the rule change will consolidate emissions registration and inventories and may maximize industry and DEQ efficiency for the two required projects.

The Registration Information rule change will allow emissions data submissions to be completed using a Web-based collection program. Use of this method creates a personnel-hour savings for most facilities and DEQ staff, while at the same time eliminating confusion between the two emissions reporting projects, reducing necessary data quality-assurance checks through computer automation, and providing more accurate fee calculations. The change will allow DEQ to meet proposed EPA data transfer deadlines.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending and temporary rule. If adopted by the Board, the temporary rule would become effective on January 4, 2006. The pending rule is expected to be final upon adjournment of the 2006 legislative session if approved by the Legislature.

**IDAHO CODE SECTION 39-107D 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.

**IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT:** No negative impact occurs from this rulemaking; provision is not applicable.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 43.

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

www.deq.idaho.gov.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rulemaking, contact Christopher Ramsdell at (208) 373-0237, christopher.ramsdell@deq.idaho.gov.

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 October 11, 2005.

DATED this 3rd day of August, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0504**

**389. REGISTRATION INFORMATION.**

Any person owning or operating a facility or source during the previous calendar year or any portion of the previous calendar year for which Sections 387 through 397 apply shall, by April 1, 2003 or within fifteen (15) days following the adjournment of the 2003 regular session of the legislature, whichever is later, and each April 1 thereafter register with the Department and submit the following information as specified in Subsections 389.01 through 389.05 (submittal forms are located at [www.deq.idaho.gov](http://www.deq.idaho.gov)): (4-2-03)(\_\_\_\_)

- 01. Facility Information.** The name, address, telephone number and location of the facility; (5-1-94)
- 02. Owner/Operator Information.** The name, address and telephone numbers of the owners and operators; (5-1-94)
- 03. Facility Emission Units.** The number and type of emission units present at the facility or the Tier I permit number for the facility; and (4-2-03)
- 04. Pollutant Registration.** The emissions from the previous calendar year for oxides of sulfur (SO<sub>x</sub>), oxides of nitrogen (NO<sub>x</sub>), particulate matter (PM), and volatile organic compounds (VOC) ~~based on one (1) or more of the following methods chosen by the registrant:~~ (4-2-03)
  - ~~a. Actual annual emissions; or~~ (4-2-03)
  - ~~b. An estimate of the actual annual emissions calculated using the unit's methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, and or the types of materials processed, stored, or combusted, during the preceding calendar year; or~~ (4-2-03)(\_\_\_\_)
  - ~~c. Allowable emissions based on permit limitations.~~ (3-19-99)



**05. Radionuclide Registration.** The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)

**06. Regulated Air Pollutant Registration Fee.** The registration fee set out in Subsection 389.06 shall be reviewed at least every two (2) years to assure the funds meet the presumptive minimum as defined by EPA. The annual registration fee set forth in Section 389 shall be paid as provided in Section 393. (4-2-03)

**a.** The Tier I annual fee schedule shall be as follows: (3-30-01)

**i.** A fixed annual fee for Tier I major sources emitting regulated air pollutants listed in Subsection 389.04 as follows: (4-2-03)

- (1) Seven thousand (7,000) tons per year and above shall pay fifty-five thousand dollars (\$55,000); (4-2-03)
  - (2) Four thousand five hundred (4,500) tons per year and above shall pay thirty-three thousand dollars (\$33,000); (4-2-03)
  - (3) Three thousand (3,000) tons per year and above shall pay twenty-two thousand dollars (\$22,000); (4-2-03)
  - (4) One thousand (1,000) tons per year and above shall pay seventeen thousand five hundred dollars (\$17,500); (4-2-03)
  - (5) Five hundred (500) tons per year and above shall pay eight thousand five hundred dollars (\$8,500); (4-2-03)
  - (6) Two hundred (200) tons per year and above shall pay five thousand five hundred dollars (\$5,500); (4-2-03)
- and
- (7) Less than two hundred (200) tons per year shall pay two thousand seven hundred fifty dollars (\$2,750); plus (4-2-03)

**ii.** A per ton annual fee of thirty-three dollars (\$33) per ton for all regulated air pollutant emissions listed in Subsection 389.04 as follows: (4-2-03)

- (1) Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred ten thousand dollars (\$110,000); (4-2-03)
- (2) Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed fifty-five thousand dollars (\$55,000); (4-2-03)
- (3) Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed twenty-seven thousand dollars (\$27,000); (4-2-03)
- (4) Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed nineteen thousand two hundred fifty dollars (\$19,250); (4-2-03)
- (5) Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed eight thousand two hundred fifty dollars (\$8,250); and (4-2-03)
- (6) Less than two hundred (200) tons per year not to exceed two thousand seven hundred fifty dollars (\$2,750). (4-2-03)

**b.** The fee-for-service shall be as follows: Sources requesting Section 300 permit modifications or

renewals, or receiving program maintenance services, including but not limited to site visits, response to public inquiries, modeling, responses to site questions and opacity readings by the Department shall be assessed a fee for actual time expended and expenses incurred by the Department in the previous calendar year in an amount not to exceed seven thousand five hundred dollars (\$7,500) per facility per year as a fee-for-service. Service shall be conducted by qualified Department staff or contractors. (4-2-03)

**07. Shortfall.** In the event that, on June 30, 2003 or June 30, 2004 the amount of fees assessed by the Department under Subsection 389.06.a. is less than one million one hundred thousand dollars (\$1,100,000), the difference shall be paid by the registrants to which Section 388 applies. (4-2-03)

**a.** The shortfall will be calculated as follows: (4-2-03)

**i.** Dividing the amount of the shortfall by the total tons of pollutants registered for the previous calendar year by all registrants; and (4-2-03)

**ii.** Calculating a per-ton fee which, when multiplied by the total tons registered generates a number in the amount of the shortfall. (4-2-03)

**b.** Each registrant shall then be assessed by September 1 of the year and shall pay by October 1 of the year a supplemental fee to make up any shortfall of the one million one hundred thousand dollars (\$1,100,000) in the amount of the tons of emissions registered for that facility in the previous calendar year multiplied by the per-ton fee calculated in Subsection 389.07.a. (4-2-03)

**c.** Subsection 389.07 of this rule shall apply only in state fiscal years 2004 and 2005. (4-2-03)

**08. Radionuclide Registration Fee.** (4-2-03)

**a.** A registration fee of five dollars per curie per year (\$5/curie/year) shall be paid by facilities regulated under 40 CFR Part 61, Subpart H. (4-2-03)

**b.** The registration fee may be paid as provided in Section 397. (4-2-03)

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

**DOCKET NO. 58-0101-0507**

#### **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:** A public hearing concerning this proposed rulemaking will be held as follows:

**October 11, 2005, 4 p.m.**  
**Department of Environmental Quality Conference Center**  
**1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) is proposing revisions to the "Rules for the Control of Air Pollution in Idaho" for certain currently-listed sources that are exempt from obtaining an air quality permit to construct. Facility types affected are certain size crematoriums, certain petroleum remediation sources and dry cleaning facilities that are not major sources. In addition, DEQ proposes to increase the number of operating hours allowed for stationary internal combustion engines used for emergency purposes.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

**IDAHO CODE SECTION 39-107D 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.

**IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT:** No negative impact occurs from this rulemaking; provision is not applicable.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Volume 04-3, page 42, under Docket No. 58-0101-0401.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rulemaking, contact Martin Bauer at (208) 373-0440, [martin.bauer@deq.idaho.gov](mailto:martin.bauer@deq.idaho.gov).

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 October 11, 2005.

DATED this 3rd day of August, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

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**THE FOLLOWING IS THE TEXT OF DOCKET 58-0101-0507**

**222. CATEGORY II EXEMPTION.**

No permit to construct is required for the following sources. (4-5-00)

**01. Exempt Source.** A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

**a.** Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: (5-1-94)

i. Comply with Section 223. (4-5-00)

ii. Have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

**b.** Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

**c.** Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

**d.** Stationary internal combustion engines used exclusively for emergency purposes which are operated less than ~~two~~ five hundred (2500) hours per year and are fueled by natural gas, propane gas, liquefied

petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. ~~(4-5-00)~~(\_\_\_\_)

**e.** A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream or which satisfies the following: (4-5-00)

**i.** The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)

**ii.** The source shall have uncontrolled potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

**iii.** The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

**02. Other Exempt Sources.** A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

**a.** Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)

**b.** Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)

**c.** Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. ~~(5-1-94)~~(\_\_\_\_)

**d.** Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)

**e.** Mobile internal combustion engines, marine installations and locomotives. (5-1-94)

**f.** Agricultural activities and services. (5-1-94)

**g.** Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)

**h.** Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)

**i.** The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; (7-1-97)

(1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)

(2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)

**ii.** Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)

iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)

v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)

i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. ( )

j. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at [www.deq.idaho.gov](http://www.deq.idaho.gov) to help assist sources in this exemption determination. ( )

k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. ( )

~~03. Any Other Source Specifically Exempted by the Department. A list of those sources unconditionally exempted by the Department will be maintained by the Department and made available upon written request. All sources exempted by the Department shall:~~ (4-5-00)

~~a. Be analyzed by the Department and determined to meet the requirements of Subsections 220.01.a.i. and 220.01.a.ii.~~ (4-5-00)

~~b. Be analyzed by the Department and determined not to cause or significantly contribute to a violation of any ambient air quality standard.~~ (4-5-00)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0503

#### 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. This 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 September 23, 2005. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to bring Idaho's toxics criteria up to date with current science and recommendations of the U.S. Environmental Protection Agency (EPA). The Department of Environmental Quality (DEQ) proposes to revise the human health criteria (columns C1 & C2) in Section 210 to account for revised fish consumption rates and newer information in the Integrated Risk Information System (IRIS) database on health effects, and to adopt an Idaho specific cadmium aquatic life criterion based on recalculation using additional, more recent toxicity data that has become available since EPA's 2001 cadmium criteria recommendation. Development of the proposed cadmium criteria is discussed in a draft technical support document, "Cadmium Risks to Freshwater Life: Predicted low-effect values in ambient waters based upon laboratory and field studies," which is available at [www.deq.idaho.gov/rules/water/58\\_0102\\_0503\\_proposed.cfm](http://www.deq.idaho.gov/rules/water/58_0102_0503_proposed.cfm) or by contacting Don Essig at (208)373-0119.

Everyone in Idaho who either discharges toxics listed in Section 210 to surface waters of Idaho, or those who recreate in or obtain their drinking water from surface waters of Idaho, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

**IDAHO CODE SECTION 39-107D STATEMENT:** The revisions included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

**IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT:** No negative impact occurs from this rulemaking; provision is not applicable.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 21.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this proposed rule, contact Don Essig at (208) 373-0119, [Don.Essig@deq.idaho.gov](mailto:Don.Essig@deq.idaho.gov).

Anyone may submit written comments on the proposed rulemaking by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 7, 2005.

Dated this 3rd day of August, 2005.

Paula J. Wilson  
 Hearing Coordinator  
 Department of Environmental Quality  
 1410 N. Hilton, Boise, Idaho 83706-1255  
 (208)373-0418/Fax No. (208)373-0481  
 Paula.Wilson@deq.idaho.gov

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-0503**

**210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.**

- 01. Criteria for Toxic Substances.** The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)
- a.** Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)
  - b.** Column C2 of the following table applies to waters designated for recreation use. (5-3-03)
  - c.** Column C1 of the following table applies to waters designated for domestic water supply use.

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)	<sup>b</sup> CCC (µg/L)	Water & organisms (µg/L)	Organisms only (µg/L)
		B1	B2	C1	C2
1 Antimony	7440360			5.6 <del>h</del>	640 <del>h</del>
2 Arsenic	7440382	340 e	150 e	50 d	50 d
3 Beryllium	7440417			h	h
4 Cadmium	7440439	<del>2</del> 1.3 i	<del>40</del> 6 i	h	h
5a Chromium III	16065831	570 i	74 i	h	h
5b Chromium VI	18540299	16 e	11 e	h	h
6 Copper	7440508	17 i	11 i		
7 Lead	7439921	65 i	2.5 i	h	h
8a Mercury	7439976	g	g		
8b Methylmercury	22967926				0.3 mg/kg p
9 Nickel	7440020	470 i	52 i	610 c	4600 c
10 Selenium	7782492	20 f	5 f	<u>170</u> <del>h</del>	<u>4200</u> <del>h</del>



A		B Aquatic life		Human health for consumption of:	
(Number) Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L) B1	<sup>b</sup> CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
11 Silver	7440224	3.4 i			
12 Thallium	7440280			<del>1.70</del> <u>24</u> c	<del>6.30</del> <u>47</u> c
13 Zinc	7440666	120 i	120 i	7400	26000
14 Cyanide	57125	22 j	5.2 j	<del>700</del> <u>140</u> c	<del>220000</del> <u>140</u> c
15 Asbestos	1332214			7,000,000 fibers/L k	
16 2, 3, 7, 8-TCDD Dioxin	1746016			0.0000000 <del>4305</del> l	0.0000000 <del>44051</del> l
17 Acrolein	107028			<del>320</del> <u>190</u>	<del>780</del> <u>290</u>
18 Acrylonitrile	107131			0.05 <del>91</del> cl	0.6 <del>625</del> cl
19 Benzene	71432			<del>42.2</del> cl	<del>751</del> cl
20 Bromoform	75252			4.3 cl	<del>360</del> <u>140</u> cl
21 Carbon Tetrachloride	56235			0.2 <del>53</del> cl	<del>4.41.6</del> cl
22 Chlorobenzene	108907			<del>680</del> <u>130</u> c	<del>240</del> <u>1600</u> c
23 Chlorodibromomethane	124481			0.4 <del>40</del> cl	<del>3413</del> cl
24 Chloroethane	75003				
25 2-Chloroethylvinyl Ether	110758				
26 Chloroform	67663			5.7 e	470 e
27 Dichlorobromomethane	75274			0.2 <del>755</del> cl	<del>2217</del> cl
28 1,1-Dichloroethane	75343				
29 1,2-Dichloroethane	107062			0.38 cl	<del>9937</del> cl
30 1,1-Dichloroethylene	75354			<del>0.057</del> <u>330</u> e	<del>3.27</del> <u>100</u> e
31 1,2-Dichloropropane	78875			0.50 cl	15 cl
32 1,3-Dichloropropylene	542756			<del>40.34</del> e	<del>470021</del> e
33 Ethylbenzene	100414			<del>3400</del> <u>530</u> c	<del>29000</del> <u>2100</u> c
34 Methyl Bromide	74839			4 <del>87</del> c	<del>4000</del> <u>1500</u> c
35 Methyl Chloride	74873				h
36 Methylene Chloride	75092			4.7 <del>6</del> cl	<del>4600</del> <u>590</u> cl
37 1,1,2,2-Tetrachloroethane	79345			0.17 cl	<del>444.0</del> cl
38 Tetrachloroethylene	127184			0.8 <del>69</del> l	<del>8.863.3</del> l
39 Toluene	108883			<del>6800</del> <u>1300</u> c	<del>200000</del> <u>15000</u> c

A		B Aquatic life		Human health for consumption of:		
(Number) Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L) B1	<sup>b</sup> CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2	
40	1,2-Trans-Dichloroethylene	156605		140 c	10000 c	
41	1,1,1-Trichloroethane	71556			h	
42	1,1,2-Trichloroethane	79005		0.659 cl	4216 cl	
43	Trichloroethylene	79016		2.75 l	8130 l	
44	Vinyl Chloride	75014		20.025 l	5252.4 l	
45	2-Chlorophenol	95578		81 c	150 c	
46	2,4-Dichlorophenol	120832		9377 c	7290 c	
47	2,4-Dimethylphenol	105679		380 c	850 c	
48	2-Methyl-4,6-Dinitrophenol	534521		13.4	765280	
49	2,4-Dinitrophenol	51285		7069 c	4405300 c	
50	2-Nitrophenol	88755				
51	4-Nitrophenol	100027				
52	3-Methyl-4-Chlorophenol	59507				
53	Pentachlorophenol	87865	20 m	13 m	0.287 cl	8.23.0 cl
54	Phenol	108952			21000 c	461700000 c
55	2,4,6-Trichlorophenol	88062			2.1.4 cl	6.52.4 cl
56	Acenaphthene	83329			670 c	990 c
57	Acenaphthylene	208968				
58	Anthracene	120127			968300 c	4440000 c
59	Benzidine	92875			0.00042086 cl	0.0005420 cl
60	Benzo(a)Anthracene	56553			0.00238 cl	0.0318 cl
61	Benzo(a)Pyrene	50328			0.00238 cl	0.0318 cl
62	Benzo(b)Fluoranthene	205992			0.00238 cl	0.0318 cl
63	Benzo(ghi)Perylene	191242				
64	Benzo(k)Fluoranthene	207089			0.00238 cl	0.0318 cl
65	Bis(2-Chloroethoxy) Methane	111911				
66	Bis(2-Chloroethyl)Ether	111444			0.0340 cl	4.40.53 cl

A		B Aquatic life		Human health for consumption of:			
(Number) Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)	<sup>b</sup> CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)	
		B1	B2	C1		C2	
67	Bis(2-Chloroisopropyl) Ether	108601		1400	c	<del>470</del> 65000	c
68	Bis(2-Ethylhexyl) Phthalate	117817		1.82	cl	<del>5.92</del> 2	cl
69	4-Bromophenyl Phenyl Ether	101553					
70	Butylbenzyl Phthalate	85687		1500	c	1900	c
71	2-Chloronaphthalene	91587		1000	c	1600	c
72	4-Chlorophenyl Phenyl Ether	7005723					
73	Chrysene	218019		0.00238	cl	0.0318	cl
74	Dibenzo [a,h] Anthracene	53703		0.00238	cl	0.0318	cl
75	1,2-Dichlorobenzene	95501		<del>2700</del> 420	c	<del>1700</del> 300	c
76	1,3-Dichlorobenzene	541731		<del>400</del> 320		<del>2600</del> 960	
77	1,4-Dichlorobenzene	106467		<del>400</del> 63		<del>2600</del> 190	
78	3,3'-Dichlorobenzidine	91941		0.0421	cl	0.07728	cl
79	Diethyl Phthalate	84662		<del>231</del> 7000	c	<del>4204</del> 4000	c
80	Dimethyl Phthalate	131113		<del>3132</del> 70000		<del>2911</del> 00000	
81	Di-n-Butyl Phthalate	84742		2700	c	<del>4200</del> 4500	c
82	2,4-Dinitrotoluene	121142		0.11	l	<del>9.13</del> 4	l
83	2,6-Dinitrotoluene	606202					
84	Di-n-Octyl Phthalate	117840					
85	1,2-Diphenylhydrazine	122667		0.04036	cl	0.5420	cl
86	Fluoranthene	206440		<del>300</del> 130	c	<del>370</del> 140	c
87	Fluorene	86737		13100	c	<del>440</del> 5300	c
88	Hexachlorobenzene	118741		0.0007528	cl	0.0007729	cl
89	Hexachlorobutadiene	87683		0.44	cl	5018	cl
90	Hexachloro-cyclopentadiene	77474		240	e	<del>470</del> 1100	e
91	Hexachloroethane	67721		1.94	cl	<del>8.93</del> 3	cl
92	Ideno (1,2,3-cd) Pyrene	193395		0.00238	cl	0.0318	cl

A		B Aquatic life		Human health for consumption of:				
(Number) Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)	<sup>b</sup> CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)		
		B1	B2	C1		C2		
93	Isophorone	78591			<del>8.435</del>	cl	<del>600960</del>	cl
94	Naphthalene	91203						
95	Nitrobenzene	98953			17	c	<del>1900690</del>	c
96	N-Nitrosodimethylamine	62759			0.00069	cl	<del>8.13.0</del>	cl
97	N-Nitrosodi-n-Propylamine	621647			<u>0.0050</u>	cl	<u>0.51</u>	cl
98	N-Nitrosodiphenylamine	86306			<del>5.03.3</del>	cl	<del>46.0</del>	cl
99	Phenanthrene	85018						
100	Pyrene	129000			<del>960830</del>	c	<del>114000</del>	c
101	1,2,4-Trichlorobenzene	120821			<u>35</u>		<u>70</u>	
102	Aldrin	309002	3		<del>0.00013049</del>	cl	<del>0.00014050</del>	cl
103	alpha-BHC	319846			<del>0.003926</del>	cl	<del>0.013049</del>	cl
104	beta-BHC	319857			<del>0.014091</del>	cl	<del>0.04617</del>	cl
105	gamma-BHC (Lindane)	58899	2	0.08	<del>0.0198</del>	l	<del>0.0631.8</del>	l
106	delta-BHC	319868						
107	Chlordane	57749	2.4	0.0043	<del>0.0005780</del>	cl	<del>0.0005981</del>	cl
108	4,4'-DDT	50293	1.1	0.001	<del>0.0005922</del>	cl	<del>0.0005922</del>	cl
109	4,4'-DDE	72559			<del>0.0005922</del>	cl	<del>0.0005922</del>	cl
110	4,4'-DDD	72548			<del>0.0008331</del>	cl	<del>0.0008431</del>	cl
111	Dieldrin	60571	2.5	0.0019	<del>0.00014052</del>	cl	<del>0.00014054</del>	cl
112	alpha-Endosulfan	959988	0.22	0.056	<del>0.9362</del>	c	<del>2.089</del>	c
113	beta-Endosulfan	33213659	0.22	0.056	<del>0.9362</del>	c	<del>2.089</del>	c
114	Endosulfan Sulfate	1031078			<del>0.9362</del>	c	<del>2.089</del>	c
115	Endrin	72208	0.18	0.0023	<del>0.76059</del>	c	<del>0.81060</del>	c
116	Endrin Aldehyde	7421934			<del>0.7629</del>	c	<del>0.8130</del>	c
117	Heptachlor	76448	0.52	0.0038	<del>0.00024079</del>	cl	<del>0.00024079</del>	cl
118	Heptachlor Epoxide	1024573	0.52	0.0038	<del>0.0004039</del>	cl	<del>0.00044039</del>	cl
119	Polychlorinated Biphenyls PCBs:	n		0.014 n	<del>0.00047064</del>	clo	<del>0.00047064</del>	clo

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L) B1	<sup>b</sup> CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
120	Toxaphene	8001352	0.73	0.0007328	cl
121	Chlorine		19 k	11 k	
<p><del>Note to table:</del> Table values are from 57 FR 60910, December 22, 1992 (National Toxics Rule) except as noted.</p> <p><b>Table Footnotes</b></p> <p>a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.</p> <p>b. See Definitions, Section <del>403010</del> of these rules.</p> <p>c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of <del>December 22, 1992</del> May 17, 2002. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.</p> <p>d. Inorganic form only. <del>The criterion for arsenic is the MCL in effect as of April 5, 2000.</del></p> <p>e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.</p> <p>f. Criterion expressed as total recoverable (unfiltered) concentrations.</p> <p>g. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.</p> <p>h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.</p> <p>i. Aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).</p> <p>j. Criteria are expressed as weak acid dissociable (WAD) cyanide.</p> <p>k. Total chlorine residual concentrations.</p> <p>l. <u>EPA guidance allows states to choose a risk factor of 10<sup>-4</sup> to 10<sup>-6</sup>. Idaho has chosen to base</u> <del>This criterion is based</del> on carcinogenicity of 10<sup>-6</sup> risk.</p> <p>m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8).                  CMC = exp(1.005(pH)-4.830)                  CCC = exp(1.005(pH)-5.290)</p> <p>n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.</p>					

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L) B1	<sup>b</sup> CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).					
p. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: $TRC = [BW \times \{RfD - (RSC \times RfD)\}] / \sum TL$ . In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.					

(4-6-05)( )

**02. Factors for Calculating Hardness Dependent Metals Criteria.** Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a.  $CMC = WER \exp\{m_A[\ln(\text{hardness})] + b_A\}$  X Acute Conversion Factor. (5-3-03)

b.  $CCC = WER \exp\{m_C[\ln(\text{hardness})] + b_C\}$  X Chronic Conversion Factor.

Metal	$m_A$	$b_A$	$m_C$	$b_C$	<sup>a</sup> Acute Conversion Factor	<sup>a</sup> Chronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	<del>1.0166</del> 0.8367	<del>-3.924</del> -3.560	<del>0.7852</del> 0.6238	<del>-3.490</del> -3.340	<del>0.944</del> see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

**Footnotes to table:**

**a.** Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table.

Cadmium

Acute:  $CF = 1.136672 - [(ln \text{ hardness})(0.041838)]$  NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.

Chronic:  $CF = 1.101672 - [(ln \text{ hardness})(0.041838)]$

Lead (Acute and Chronic):  $CF = 1.46203 - [(ln \text{ hardness})(0.145712)]$

**b.** Not applicable

**c.** No chronic criteria are available for silver.

(4-6-05)( )

**03. Applicability.** The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

**a.** For all waters for which the Department has determined mixing zones to be applicable, the criteria apply at the appropriate locations specified within or at the boundary of the mixing zone(s) ~~of the mixing zones~~; otherwise the criteria apply through the waterbody including at the end of any discharge pipe, canal or other discharge point. (5-3-03)( )

**b.** Low flow design discharge conditions. Numeric chemical standards can only be exceeded in perennial streams ~~due to~~ permitted discharges outside any applicable mixing zone when flows are less than the following values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	30Q5
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(5-3-03)( )

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedence of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedence for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

v. Where "30Q5" is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For purposes of calculating aquatic life criteria for metals from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (4-6-05)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (4-6-05)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in



fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

v. Frequency and duration for toxics criteria. Column B1 criteria are concentrations not to be exceeded for a one-hour average more than once in three (3) years. Column B2 criteria are concentrations not to be exceeded for a four-day average more than once in three (3) years. ( )

**04. National Pollutant Discharge Elimination System Permitting.** For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

- 1993.
- a. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October (4-5-00)
  - b. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993. (4-5-00)
  - c. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993. (4-5-00)

- 1994.
- d. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February (4-5-00)

**05. Development of Toxic Substance Criteria.** (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

- i. Site-specific criteria developed pursuant to Section 275; (4-5-00)
- ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)
- iii. The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (4-5-00)
- iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health, a fish consumption rate of ~~seven~~ seventeen point five (~~17.5~~ 17.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of  $10^{-6}$  shall be utilized. (~~4-5-00~~)( )

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0504

#### 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. This 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 September 21, 2005. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** Under proposed rule Docket No. 58-0116-0501, certain wastewater rule sections and definitions have been copied from IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," revised as necessary, and inserted into a new proposed rule chapter, IDAPA 58.01.16, "Wastewater Rules". This proposed rule docket (58-0102-0504) has been initiated for the purpose of deleting those sections and definitions that are either unnecessary to remain in rule or have been copied and moved to the proposed rule chapter (IDAPA 58.01.16). This rulemaking is necessary to prevent inconsistency and/or redundancy between DEQ rule chapters. As a result of these changes, DEQ proposes to change the Title of this rule chapter to "Water Quality 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 public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

**IDAHO CODE SECTION 39-107D STATEMENT:** The revisions included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

**IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT:** No negative impact occurs from this rulemaking; provision is not applicable.

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

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this proposed rule, contact Don Essig at (208) 373-0119 or [Don.Essig@deq.idaho.gov](mailto:Don.Essig@deq.idaho.gov).

Anyone may submit written comments on the proposed rulemaking by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

Paula J. Wilson, Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[Paula.Wilson@deq.idaho.gov](mailto:Paula.Wilson@deq.idaho.gov)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-0504

**002. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as Rules of the Department of Environmental Quality, IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements~~". (4-5-00)()

**02. Scope.** These rules designate uses which are to be protected in and of the waters of the state and establish standards of water quality protective of those uses. Restrictions are placed on the discharge of wastewaters and on human activities which may adversely affect public health and water quality in the waters of the state. In addition, unique and outstanding waters of the state are recognized. These rules do not provide any legal basis for an additional permit system, nor can they be construed as granting to the Department any authority not identified in the Idaho Code. (4-2-03)

**003. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements~~," the following definitions apply: (4-5-00)()

**01. Acute.** Involving a stimulus severe enough to rapidly induce a response; in aquatic toxicity tests, a response measuring lethality observed in ninety-six (96) hours or less is typically considered acute. When referring to human health, an acute effect is not always measured in terms of lethality. (3-20-97)

**02. Acute Criteria.** Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. Acute criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "acute criteria" and "criterion maximum concentration" (CMC) are equivalent. (3-15-02)

**03. Acute Toxicity.** The existence of mortality or injury to aquatic organisms resulting from a single or short-term (i.e., ninety-six (96) hours or less) exposure to a substance. As applied to toxicity tests, acute toxicity refers to the response of aquatic test organisms to a concentration of a toxic substance or effluent which results in a LC-50. (3-20-97)

**04. Aquatic Species.** Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

~~**05. Available.** Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-6-05)~~

~~**065. Background.** The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the department will determine where background conditions should be measured. (8-24-94)~~

~~**076. Basin Advisory Group.** No less than one advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)~~

**087. Beneficial Use.** Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

**098. Best Management Practice.** A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

**109. Bioaccumulation.** The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

~~**11. Biochemical Oxygen Demand (BOD).** The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (8-24-94)~~

**120. Biological Monitoring or Biomonitoring.** The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

**131. Board.** The Idaho Board of Environmental Quality. (7-1-93)

**142. Chronic.** Involving a stimulus that lingers or continues for a relatively long period of time, often one-tenth (.01) of the life span or more. Chronic should be considered a relative term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality. (8-24-94)

**153. Chronic Criteria.** Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. Chronic criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "chronic criteria" and "criterion continuous concentration" (CCC) are equivalent. (3-15-02)

**164. Chronic Toxicity.** The existence of mortality, injury, reduced growth, impaired reproduction, or any other adverse effect on aquatic organisms resulting from a long-term (i.e., one-tenth (0.1) or more of the organism's life span) exposure to a substance. As applied to toxicity tests, chronic toxicity refers to the response of aquatic organisms to a concentration of a toxic substance or effluent which results in an IC-25. (8-24-94)

~~**17. Collection System.** That portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. (4-6-05)~~

**185. Compliance Schedule Or Schedule Of Compliance.** A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

**196. Criterion Continuous Concentration (CCC).** Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. The CCC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "criterion continuous concentration" and "chronic criteria" are equivalent. (3-15-02)

**2017. Criterion Maximum Concentration (CMC).** Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures

adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. The CMC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms “criterion maximum concentration” and “acute criteria” are equivalent.

(3-15-02)

**218. Daily Mean.** The average of at least two (2) appropriately spaced measurements, acceptable to the department, calculated over a period of one (1) day: (3-20-97)

**a.** Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

**b.** If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

**c.** In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

**2219. Deleterious Material.** Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

**230. Department.** The Idaho Department of Environmental Quality. (7-1-93)

**241. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

**252. Designated Agency.** The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department’s division of environmental quality for all other activities. (3-20-97)

**263. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements,” Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

**274. Desirable Species.** Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

**285. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

**296. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (8-24-94)

~~**30. Disinfection.** A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (7-1-93)~~

~~**327. Dissolved Oxygen (DO).** The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)~~

~~**328. Dissolved Product.** Petroleum product constituents found in solution with water. (8-24-94)~~

~~**329. Dynamic Model.** A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)~~

- 340. E. coli (Escherichia coli).** A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)
- 351. Effluent.** Any wastewater discharged from a treatment facility. (7-1-93)
- 362. Effluent Biomonitoring.** The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)
- 373. EPA.** The United States Environmental Protection Agency. (7-1-93)
- 384. Ephemeral Waters.** A stream, reach, or water body that flows only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-5-00)
- 395. Existing Beneficial Use Or Existing Use.** Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements~~". (8-24-94)(\_\_\_\_)
- 4036. Facility.** As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)
- 41. Fecal Coliform.** *The portion of the coliform group of bacteria present in the gut and feces of warm-blooded animals, usually expressed as number of organisms/one hundred (100) ml of sample.* (7-1-93)
- 4237. Four Day Average.** The mean of the twenty-four (24) hour average values calculated over a period of ninety-six (96) consecutive hours. (3-20-97)
- 438. Free Product.** A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)
- 4439. Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water.** Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)
- 450. Geometric Mean.** The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)
- 461. Ground Water.** Subsurface water comprising the zone of saturation. (8-24-94)
- 472. Harmonic Mean Flow.** The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). (8-24-94)
- 483. Hazardous Material.** A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)
- 494. Hydrologic Unit Code (HUC).** A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

**5045. Hydrologically-Based Design Flow.** A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one or more excursions below the design flow can occur. (8-24-94)

**5146. Hypolimnion.** The deepest zone in a thermally-stratified body of water. It is fairly uniform in temperature and lies beneath a zone of water which exhibits a rapid temperature drop with depth of at least one (1) degree C per meter. (3-20-97)

~~**52. Inhibition Concentration-25 (IC-25).** A point estimate of the toxicant concentration that would cause a twenty five percent (25%) reduction in a non-lethal biological measurement of the test organisms, such as reproduction or growth. Determined using curve fitting with an assumption of a continuous dose response relationship. An IC-25 is approximately the analogue of NOEC. (8-24-94)~~

~~**53. Instantaneous Concentration.** A concentration of a substance measured at any moment (instant) in time. (8-24-94)~~

**547. Inter-Departmental Coordination.** Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

**5548. Intermittent Waters.** A stream, reach, or water body which has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based flow of less than one-tenth (0.1) cfs is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-5-00)

~~**56. Land Application.** A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (8-24-94)~~

**5749. LC-50.** The toxicant concentration killing fifty percent (50%) of exposed organisms at a specific time of observation (e.g., ninety-six (96) hours). (3-20-97)

~~**58. License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-95)~~

**590. Load Allocation (LA).** The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

~~**6051. Loading Capacity.** The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)~~

~~**6152. Lower Water Quality.** A measurable adverse change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices. (3-20-97)~~

~~**6253. Lowest Observed Effect Concentration (LOEC).** The lowest concentration of a toxicant or an effluent that results in observable adverse effects in the aquatic test population. (8-24-94)~~

~~**6354. Man-Made Waterways.** Canals, flumes, ditches, and similar features, constructed for the purpose of water conveyance. (7-1-93)~~

~~**6455. Maximum Weekly Maximum Temperature (MWMT).** The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period. The MWMT~~

is the single highest WMT that occurs during a given year. (3-15-02)

**656. Milligrams Per Liter (mg/l).** Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

**6657. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

**6758. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

**6859. Natural Background Conditions.** No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (3-15-02)

**690. Nephelometric Turbidity Units (NTU).** A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

**7061. Nonpoint Source Activities.** Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a. Irrigated and nonirrigated lands used for: (7-1-93)
  - i. Grazing; (7-1-93)
  - ii. Crop production; (7-1-93)
  - iii. Silviculture; (7-1-93)
- b. Log storage or rafting; (7-1-93)
- c. Construction sites; (7-1-93)
- d. Recreation sites; (3-20-97)
- e. Septic tank disposal fields. (8-24-94)
- f. Mining; (3-20-97)
- g. Runoff from storms or other weather related events; and (3-20-97)
- h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

~~**71. No Observed Adverse Effect Level (NOAEL).** A threshold dose of a toxic substance or an effluent below which no adverse biological effects are observed, as identified from chronic or subchronic human epidemiology studies or animal exposure studies. (8-24-94)~~

~~**72. No Observed Effect Concentration (NOEC).** The highest concentration of a toxic substance or an effluent at which no adverse effects are observed on the aquatic test organisms. Determined using hypothesis testing with the assumption of a noncontinuous threshold model of the dose-response relationship. (8-24-94)~~



~~7362.~~ **Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

~~7463.~~ **Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

~~7564.~~ **One Day Minimum.** The lowest daily instantaneous value measured. (3-20-97)

~~765.~~ **One Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

~~77.~~ **Operating Personnel.** *Any person who is employed, retained, or appointed to make system control or system integrity decisions about water quantity or water quality that may affect public health as part of the tasks conducted with the day-to-day operation and maintenance of a public wastewater system.* (4-6-05)

~~7866.~~ **Operator.** For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

~~7967.~~ **Outstanding Resource Water (ORW).** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

~~8068.~~ **Outstanding Resource Water Mixing Zone.** An area or volume of an ORW where pollutants are allowed to mix with the ORW receiving water at a location distinct from the sampling point where compliance with ORW quality standards is measured. An ORW mixing zone will be downstream from the discharge of a tributary or a segment immediately upstream which contains man caused pollutants as a result of nonpoint source activities occurring on that tributary or segment. As a result of the discharge, the mixing zone may not meet all water quality standards applicable to the ORW, but shall still be protected for existing beneficial uses. The Department, after consideration of input from interested parties, will determine the size, configuration and location of mixing zones which are necessary to meet the requirements of this chapter. (7-1-93)

~~8169.~~ **Owner.** For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

~~82.~~ **Owner of Public Wastewater System.** *For purposes of Sections 403 through 405, the person, company, corporation, district, association or other organizational entity which holds legal title to the public wastewater system, and who provides, or intends to provide wastewater service to system users and is ultimately responsible for the public wastewater system operation.* (4-6-05)

~~8370.~~ **Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

~~8471.~~ **Petroleum Products.** Products derived from petroleum through various refining processes. (7-1-93)

~~8572.~~ **Petroleum Storage Tank (PST) System.** Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

~~8673.~~ **Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

~~874.~~ **Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

~~88.~~ **Potable Water.** *A water which is free from impurities in such amounts that it is safe for human consumption without treatment.* (7-1-93)

~~89.~~ **Primary Treatment.** *Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow.* (7-1-93)

~~9075.~~ **Project Plans.** Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

~~91.~~ **Public Wastewater System or Wastewater System.** *For purposes of Sections 403 through 405, a public wastewater system means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a non profit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership.* (4-6-05)

~~9276.~~ **Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

~~93.~~ **Recharge.** *The process of adding water to the zone of saturation.* (7-1-93)

~~94.~~ **Recharge Water.** *Water that is specifically utilized for the purpose of adding water to the zone of saturation.* (7-1-93)

~~9577.~~ **Reference Stream or Condition.** A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

~~9678.~~ **Release.** Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

~~979.~~ **Resident Species.** Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

- b. Are present only seasonally due to migration; (8-24-94)
- c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)
- d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)
- e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

~~**98. Responsible Charge (RC).** For purposes of Sections 403 through 413, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. (4-2-03)~~

~~**99. Responsible Charge Operator.** For purposes of Sections 403 through 405, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site and/or on-call presence at the specified facility. (4-6-05)~~

~~**1080. Responsible Persons in Charge.** Any person who: (8-24-94)~~

- a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)
- b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)
- c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

~~**101. Saturated Zone.** Zone or layer beneath the earth's surface in which all of the pore spaces of rock or soil are filled with water. (7-1-93)~~

~~**102. Secondary Treatment.** Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (7-1-93)~~

~~**10381. Seven Day Mean.** The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)~~

~~**10482. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)~~

~~**10583. Short-Term or Temporary Activity.** An activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-20-97)~~

~~**10684. Silviculture.** Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)~~

~~40785.~~ **Sludge.** The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

~~4086.~~ **Special Resource Water.** Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)

a. To preserve outstanding or unique characteristics; or (7-1-93)

b. To maintain current beneficial use. (7-1-93)

~~40987.~~ **Specialized Best Management Practices.** Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

~~4088.~~ **State.** The state of Idaho. (7-1-93)

~~4189.~~ **State Water Quality Management Plan.** The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

~~412.~~ **Steady State Model.** *A fate and transport model that uses constant values of input variables to predict constant values of receiving water quality concentrations.* (8-24-94)

~~413.~~ **Substitute Responsible Charge Operator.** *A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible.* (4-6-05)

~~414.~~ **Subsurface Disposal.** *Disposal of effluent below ground surface, including, but not limited to, drainfields or sewage beds.* (7-1-93)

~~41590.~~ **Suspended Sediment.** Organic and inorganic particulate matter which has been removed from its site of origin and measured while suspended in surface water. (7-1-93)

~~41691.~~ **Technology-Based Effluent Limitation.** Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

~~41792.~~ **Total Maximum Daily Load (TMDL).** The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

~~41893.~~ **Toxicity Test.** A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

~~4194.~~ **Toxic Substance.** Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

~~42095.~~ **Treatment.** A process or activity conducted for the purpose of removing pollutants from

wastewater.

(7-1-93)

~~12196.~~ **Treatment System.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. *This definition does not apply to Sections 403 through 413.*

~~(4-2-03)( )~~

~~122.~~ **Trihalomethane (THM).** *THM means one of the family of organic compounds named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in the molecular structure of methane are substituted by one (1) of the chemical elements chlorine, bromine or iodine.*

~~(7-1-93)~~

~~12397.~~ **Twenty-Four Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean.

~~(3-20-97)~~

~~12498.~~ **Unique Ecological Significance.** The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes.

~~(8-24-94)~~

~~125.~~ **User.** *Any person served by a public wastewater system.*

~~(4-2-03)~~

~~12699.~~ **Wasteload Allocation (WLA).** The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution.

~~(8-24-94)~~

~~12700.~~ **Wastewater.** Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present.

~~(7-1-93)~~

~~128.~~ **Wastewater Collection System Operator.** *The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater collection system in order to safeguard the public health and environment.*

~~(4-2-03)~~

~~129.~~ **Wastewater Treatment Operator.** *The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment system in order to safeguard the public health and environment.*

~~(4-2-03)~~

~~1301.~~ **Water Body Unit.** Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise.

~~(4-5-00)~~

~~13102.~~ **Water Pollution.** Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses.

~~(8-24-94)~~

~~13203.~~ **Water Quality-Based Effluent Limitation.** An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses.

~~(8-24-94)~~

~~13304.~~ **Water Quality Limited Water Body.** After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited

shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

**13405. Waters And Waters Of The State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

**13506. Watershed.** The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

**13607. Watershed Advisory Group.** An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

**13708. Whole-Effluent Toxicity.** The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. RULES GOVERNING POINT SOURCE DISCHARGES.**

**01. Implementation Policy.** (7-1-93)

**a.** As provided for in Subsection 080.01, and Sections 200, 210, 250, 251, 252, 253, 275, and 400 for point source discharges, failure to meet general or specific water quality criteria is a violation of the water quality standards. (4-5-00)

**b.** Except as noted in Section 400, no new point source can discharge pollutants, and no existing point source can increase its discharge of pollutants above the design capacity of its existing wastewater treatment facility, to any water designated as a special resource water or to a tributary of, or to the upstream segment of a special resource water: if pollutants significant to the designated beneficial uses can or will result in a reduction of the ambient water quality of the receiving special resource water as measured immediately below the applicable mixing zone. (8-24-94)

**c.** ~~For those point sources that normally require authorization, n~~No unauthorized discharge from a point source shall occur to waters of the state. (8-24-94)(\_\_\_\_)

**02. Limitations to Point Source Restrictions.** (7-1-93)

**a.** So long as a point source discharge or wastewater treatment facility is regulated by the terms and conditions of an authorization pursuant to Subsection 080.02, a Board order, decree or compliance schedule, a valid NPDES permit issued by the EPA, or is subject to the provisions of Subsection 401.05, the discharge or facility will not be subject to additional restrictions or conditions based on Subsections 080.01, or 400.01.b. and Sections 200, 210, 250, 251, 252, and 253. (4-5-00)

**b.** The restrictions set forth in Subsection 400.01.b. are modified as follows: New point sources can discharge, and existing point sources can increase its discharge above the design capacity of its existing wastewater treatment facility, resulting in increases in water temperatures and fluoride concentrations up to levels needed to protect designated beneficial uses in the Boise River between the bridge at Broadway Avenue and River Mile 50 (through Veteran's State Park). (4-5-00)

**03. Compliance Schedules for Water Quality-Based Effluent Limitations.** Discharge permits for point sources may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations when new limitations are in the permit for the first time. (3-15-02)

**04. Wetlands Used for Wastewater Treatment.** (8-24-94)

**a.** Waters contained within wetlands intentionally created from non-wetland sites for the purpose of wastewater or stormwater treatment, and operated in compliance with NPDES permit conditions, shall not be subject to the application of general water quality-based or site-specific criteria and standards. (8-24-94)

**b.** Waters contained within wetlands intentionally created from non-wetland sites for the purpose of treatment of nonpoint sources of pollution, and operated in compliance with best management practices, shall not be subject to the application of general water quality-based or site specific criteria and standards. (8-24-94)

**c.** Discharges from treatment systems described in Sections 400.04.a. and 400.04.b. to waters of the state are subject to all applicable rules and requirements governing such discharges. (8-24-94)

**05. Flow Tiered NPDES Permit Limitations.** Discharge permits for point sources discharging to waters exhibiting unidirectional flow may incorporate tiered limitations for conventional and toxic constituents at the discretion of the department. (8-24-94)

#### 401. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.

~~**01. Appropriate Control Measures.** The Department, through approval or disapproval of plans for wastewater treatment and disposal facilities, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained herein. (7-1-93)~~

~~**02. Degree of Treatment.** The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following: (7-1-93)~~

~~**a.** The uses which are made or desired of the receiving water; (7-1-93)~~

~~**b.** The volume and nature of flow of the receiving water; (7-1-93)~~

~~**c.** The quantity and quality of the wastewater to be treated; and (7-1-93)~~

~~**d.** The presence or absence of other sources of water pollution on the same watershed, stream segment or aquifer. (7-1-93)~~

~~**03. Treatment Requirements.** Unless more stringent limitations are necessary to meet the applicable requirements of Sections 200 through 300, or unless specific exemptions are made pursuant to Subsection 080.02 or 401-05, wastewaters discharged into surface waters of the state must have the following characteristics: (7-1-93)( )~~

~~**01. Temperature.** The wastewater must not affect the receiving water outside the mixing zone so that: (7-1-93)~~

~~**i**a.~~ The temperature of the receiving water or of downstream waters will interfere with designated beneficial uses. (7-1-93)

~~**ii**b.~~ Daily and seasonal temperature cycles characteristic of the water body are not maintained. (7-1-93)

~~**iii**c.~~ If the water is designated for warm water aquatic life, the induced variation is more than plus two (+2) degrees C. (3-15-02)

~~**iv**d.~~ If the water is designated for cold water aquatic life, seasonal cold water aquatic life, or salmonid

spawning, the induced variation is more than plus one (+1) degree C. (3-15-02)

~~¶c.~~ If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge due to natural background conditions, then Subsections 401.03.a.iii. and 401.03.a.iv. do not apply and instead wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C. (3-15-02)

~~b02.~~ **Turbidity.** The wastewater must not increase the turbidity of the receiving water outside the mixing zone by: (7-1-93)

~~¶a.~~ More than five (5) NTU (Nephelometric Turbidity Units) over background turbidity, when background turbidity is fifty (50) NTU or less; or (7-1-93)

~~¶b.~~ More than ten percent (10%) increase in turbidity when background turbidity is more than fifty (50) NTU, not to exceed a maximum increase of twenty-five (25) NTU. (7-1-93)

~~e03.~~ **Total Chlorine Residual.** The wastewater must not affect the receiving water outside the mixing zone so that its total chlorine residual concentration exceeds eleven one-thousandths (0.011) mg/l. (1-1-89)

~~04. **Limitations on Increased Treatment Requirements.** In spite of any other provision and future amendment of these regulations, any point source treatment facility whose construction began after June 28, 1973, which was designed to meet federal and state requirements and which was constructed to the full satisfaction of the Department, will not be subject to any more stringent requirements or limitations as can be imposed by the Department during a ten (10) year period beginning on the date of completion of such construction except:~~ (7-1-93)

~~a. In conformance with contractual agreements made with the Department, in which case the date of completion of those agreements would establish the beginning of the ten (10) year period;~~ (7-1-93)

~~b. When facility expansion, production increase, or process modification would alter the composition of the discharge or exceed the design capacity of the treatment facility; or~~ (7-1-93)

~~e. When a component or a concentration of a component in the discharge is later found to be causing or to be capable of causing significant injury to a designated beneficial use.~~ (8-24-94)

~~05. **Exceptions to Treatment Requirements.** Exceptions to treatment requirements can be granted on a case-by-case basis when it can be demonstrated by the person requesting the exceptions:~~ (7-1-93)

~~a. That such exceptions will not seriously affect existing water quality and uses are adequately protected;~~ (7-1-93)

~~b. That the treatment requirement is:~~ (7-1-93)

~~i. Unreasonable with current applicable technology; or~~ (7-1-93)

~~ii. Economically prohibitive; or~~ (7-1-93)

~~e. That treatment to a lesser degree would result in a net improvement in the water quality of the receiving water.~~ (7-1-93)

~~06. **Operation.** Any person who owns or operates any sewage or other wastewater treatment facility must at all times:~~ (7-1-93)

~~a. Insure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; and~~ (7-1-93)

~~b. Maintain such facility in good repair.~~ (7-1-93)



~~07. **Treatment Records.** Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to:~~ (7-1-93)

~~a. Treated wastewater discharge volumes; and~~ (7-1-93)

~~b. Treated wastewater discharge BOD; and~~ (7-1-93)

~~c. Treated wastewater discharge suspended solid concentration; and~~ (7-1-93)

~~d. Discharge pH; and~~ (7-1-93)

~~e. Discharge temperatures.~~ (7-1-93)

~~08. **Falsification of Records.** It is a violation of these regulations for any person to falsify or knowingly render inaccurate any treatment record which can be required as provided in these regulations.~~ (7-1-93)

~~402. **REVIEW OF PLANS FOR WASTE TREATMENT FACILITIES.**~~

~~“Recommended Standards for Sewage Works” by the Great Lakes Upper Mississippi River Board of State Sanitary Engineers, and all applicable laws, rules, regulations and standards will be used as guides in the review of plans and specifications for waste treatment facilities.~~ (7-1-93)

~~01. **Plan and Specification Approval Required.** The construction, alteration or expansion of any sewage treatment system or other wastewater treatment or disposal facility must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department, except as provided in Subsection 402.03.~~ (7-1-93)

~~02. **Professional Engineer.** Plans and specifications for construction, alteration or expansion of any publicly owned sewage wastewater treatment facility shall be prepared by or under the supervision of a registered professional engineer and shall bear the imprint of the engineer's seal. Construction shall be inspected by a registered professional engineer or a person under the supervision of a registered professional engineer.~~ (7-1-93)

~~03. **Deviations From Approved Plans.** No deviations are to be made from the approved plans and specifications without prior approval of the Department.~~ (7-1-93)

~~04. **As-Constructed Plans and Specifications.** If actual construction deviates from the approved plans and specifications, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed, shall be submitted to the Department for review and approval within thirty (30) days of completion of construction.~~ (7-1-93)

~~05. **Waiver of Approval Requirement.** The Department can waive the plan and specification approval required in Subsection 402.01 for any particular facility or category of facilities which will have no significant impact on the environment or on the public health.~~ (7-1-93)

~~403. **CLASSIFICATION OF WASTEWATER SYSTEMS.**~~

~~01. **Classification Requirement.** All public wastewater systems shall be classified based on indicators of potential health risks.~~ (4-6-05)

~~a. Classification rating forms developed in accordance with the criteria in Subsection 403.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions.~~ (4-6-05)

~~b. The Department shall review system classification rating forms submitted by the public wastewater~~

~~treatment and wastewater collection system owners at five (5) year intervals and classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals. (4-6-05)~~

~~02. Classification Criteria. Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-2-03)~~

~~a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-2-03)~~

~~b. Complexity or size of collection systems. (4-2-03)~~

~~c. Other criteria deemed necessary to completely classify systems. (4-2-03)~~

~~404. WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.~~

~~01. System Operator Licensure Requirement. Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of the wastewater treatment system and collection system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ten (10) days of such change. (4-6-05)~~

~~02. Responsible Charge Operator License Requirement. An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system, where present, and each collection system as determined by the Department. (4-6-05)~~

~~03. Substitute Responsible Charge Operator. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-2-03)~~

~~04. Wastewater Operator Licensure. All other operating personnel at public wastewater systems including each treatment system and collection system must hold a valid license. (4-6-05)~~

~~05. Compliance Deadline. All public wastewater systems addressed in these rules shall be in compliance with these rules by April 15, 2006. (4-2-03)~~

~~06. Qualifications For Operator Licensure. All wastewater operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses. (4-6-05)~~

~~405. CONTRACTING FOR SERVICES.~~

~~Public wastewater systems may contract with a licensed public wastewater system operator or with a public wastewater system having licensed operators to provide supervision. The contracted public wastewater system operator or contracted entity shall employ an operator licensed at the grade equal to or greater than the classification of the system. (4-6-05)~~

~~406.---419. (RESERVED).~~

~~420. POINT SOURCE SEWAGE WASTEWATER DISCHARGE RESTRICTIONS.~~

~~All provisions and requirements of Sections 400, 401, and 402 are applicable to sewage wastewater treatment facilities and their discharges. (8-24-94)~~

~~01. General Treatment Requirements. Except as provided in Subsections 420.02 and 420.03, sewage wastewater discharges, except those from lagoon or trickling filter facilities, into surface waters of the state must have the following characteristics: (7-1-93)~~

~~a. BOD—the equivalent of eighty five percent (85%) removal of the biochemical oxygen demand, but not more than a thirty (30) day average concentration of thirty (30) mg/L; and (7-1-93)~~

~~b. Suspended Solids—the equivalent of eighty five percent (85%) removal of the suspended solids, but not more than a thirty (30) day average concentration of thirty (30) mg/L. (7-1-93)~~

~~02. Alternative Treatment Requirements. The following alternative treatment requirements are established to apply to facilities which provide at least sixty five percent (65%) BOD removal using a trickling filter or lagoon as the principal treatment process, and which the Department determines cannot consistently achieve requirements of Subsections 420.01.a. and 420.01.b. (7-1-93)~~

~~a. Sewage wastewater discharges from facilities using trickling filters as the principal treatment process must have the following characteristics: (7-1-93)~~

~~i. BOD—not to exceed a thirty (30) day average concentration of forty five (45) mg/L; and (7-1-93)~~

~~ii. Suspended Solids—at least sixty five percent (65%) removal and not to exceed a thirty (30) day average concentration of forty five (45) mg/L. (7-1-93)~~

~~b. Sewage wastewater discharges from facilities using lagoons as the principal treatment process must have the following characteristics: (7-1-93)~~

~~i. BOD—not to exceed a thirty (30) day average concentration of forty five (45) mg/L; and (7-1-93)~~

~~ii. Suspended Solids—not to exceed a thirty (30) day average concentration of seventy (70) mg/L. (7-1-93)~~

~~03. Adjusted Treatment Requirements for Industrial Loading. The Department may proportionally adjust, on a case by case basis, the treatment requirements of Subsection 401.03 or 401.05 where industrial waste loadings contribute greater than ten percent (10%) of the design flow or loading into a publicly owned sewage treatment facility. (7-1-93)~~

~~04. Determining the Necessity for Disinfection of Sewage Wastewater Treatment Plant Effluent. (8-24-94)~~

~~a. Disinfection of sewage treatment plant effluent shall be required when discharged to a water body under the following conditions: (8-24-94)~~

~~i. The water body receiving the effluent flows through a significantly populated area or has a designated or existing beneficial use of primary contact recreation. (8-24-94)~~

~~ii. The water body receiving the effluent is a direct tributary to a water body that flows through a significantly populated area or has a designated or existing beneficial use of primary contact recreation and disinfection is necessary to protect public health. (8-24-94)~~

~~iii. Site specific conditions warrant disinfection for the protection of public health. (8-24-94)~~

~~b. The need for disinfection of sewage wastewater treatment plant effluent where treatment consists of lagoons with at least thirty (30) day retention time shall be evaluated on a case by case basis. (8-24-94)~~

~~05. Disinfection Requirements for Sewage Wastewater Treatment Plant Effluent. When disinfection is determined to be required under Subsection 420.04, sewage wastewater treatment plant effluent must receive adequate disinfection by any disinfection process which satisfies the following applicable criteria, prior to discharge to any receiving water. (8-24-94)~~

~~a. E. coli concentrations in secondary treated effluent must not exceed a geometric mean of one~~

~~hundred and twenty-six (126) colonies per one hundred (100) milliliters based on a minimum of five (5) samples taken every three (3) to five (5) days over a thirty-day (30) period. A single sample must not exceed four hundred and six colonies per one hundred milliliters (406 colonies per 100 ml).~~ (3-15-02)

- ~~i. The samples must be representative of all samples collected during the month; and~~ (3-15-02)
- ~~ii. Geometric mean computations must be calculated and recorded monthly.~~ (3-15-02)

~~b. On an interim basis, pending the addition of secondary treatment, E. coli concentrations in primary effluent must not exceed a geometric mean of two hundred and fifty-two (252) colonies per one hundred (100) milliliters based on a minimum of five (5) samples taken every three (3) to five (5) days over a thirty-day (30) period. A single sample must not exceed eight hundred and twelve colonies per one hundred milliliters (812 colonies per 100 ml).~~ (3-15-02)

- ~~i. The samples must be representative of all samples collected during the month;~~ (3-15-02)
- ~~ii. Geometric mean computations must be calculated and recorded monthly; and~~ (3-15-02)
- ~~iii. This discharge bacteria level will not be permitted even on an interim basis where the bacteria receiving water quality standard is not being met.~~ (3-15-02)

~~06. Chlorine Contact Tank Requirements. Chlorine contact tanks providing disinfection must be designed and operated so that:~~ (7-1-93)

- ~~a. Short circulating is minimized with thorough mixing of chlorine and waste flow;~~ (7-1-93)
- ~~b. Floatable and settleable solids are removed without discharging unchlorinated effluent; and~~ (7-1-93)
- ~~c. Unit drains are not discharged into the treated wastewater outfall.~~ (7-1-93)

~~421. 439. (RESERVED).~~

~~440. POINT SOURCE NON-SEWAGE WASTEWATER DISCHARGE RESTRICTIONS.~~

~~All provisions and requirements of Section 440 are applicable to non-sewage wastewater treatment facilities and their discharges.~~ (7-1-93)

~~01. Treatment Requirements. Non-sewage wastewaters discharged into surface waters of the state shall, prior to discharge, be treated to the extent necessary to be consistent with applicable limitations and guidelines published by the Administrator of the EPA in compliance with the Clean Water Act of 1977, as amended (33 USC 1251, et seq.).~~ (7-1-93)

~~02. Disinfection of Non-Sewage Wastewaters. Non-sewage wastewaters discharged into waters of the state, prior to discharge, will be disinfected if they contain or if they might contain pathogenic organisms in concentrations capable of threatening actual or designated uses.~~ (7-1-93)

~~441. 459. (RESERVED).~~

~~460. SUBSURFACE SEWAGE OR WASTE DISPOSAL.~~

~~Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses.~~ (8-24-94)

~~461. 479. (RESERVED).~~

~~480. WASTE DISPOSAL AND INJECTION WELLS.~~

~~The construction and operation of wastewater injection wells within the state are regulated by the Idaho Department of Water Resources.~~ (7-1-93)

~~481. — 599. (RESERVED).~~

~~600. LAND APPLICATION OF WASTEWATER(S) OR RECHARGE WATERS.~~

~~Land application of wastewater or recharge waters is subject to the following requirements: (11-20-87)~~

~~01. Land Application Permit. Idaho Department of Environmental Quality Rules, Title 01, Chapter 17, "Land Application Permit Rules," require a permit prior to land application of certain types of wastewater. (11-20-87)~~

~~02. Applied Waters Restricted to Premises. Wastewater(s) or recharge waters applied to the land surface must be restricted to the premises of the application site unless permission has been obtained from the Department authorizing a discharge into the waters of the state. (7-1-93)~~

~~03. Hazard or Nuisance Prohibited. Wastewaters must not create a public health hazard or a nuisance condition. (7-1-93)~~

~~04. Monitoring. Provision must be made for monitoring the quality of the ground water in proximity of the application site. The ground water monitoring program is subject to approval by the Department. All data and reports resulting from the ground water monitoring program must be submitted to the Department upon request. The minimum frequency of monitoring and data submittal will be determined by the Department and in general will be dependent upon: (8-24-94)~~

~~a. The nature and volume of wastewater material or recharge water; (7-1-93)~~

~~b. The frequency and duration of application; and (7-1-93)~~

~~c. The characteristics of the soil mantle on and lithology underlying the application site. (7-1-93)~~

~~05. Basis for Evaluation. The evaluation for an approval to irrigate, either by sprinkling or flooding or surface spreading of wastewater material or by burying wastewater material or recharge water in the upper soil horizon as a method of treatment, must include, but will not necessarily be limited to, consideration of the following items: (7-1-93)~~

~~a. The type and quantity of wastewater(s) proposed for land application. In general, the wastewater(s) organic constituents are to be biologically degradable and inorganic constituents must be utilized by vegetation or those organisms normally present in the soil. Other wastewater(s) or recharge waters will be considered provided it can be shown that land application will not adversely affect beneficial uses of waters of the state. (7-1-93)~~

~~b. The nature of the soils and geologic formations underlying the application site. The entity proposing the activity must provide reasonable assurance that the soils and site geology will provide the required level of treatment and will not allow movement of pollutants into the underlying ground water. (8-24-94)~~

~~c. The ability of the soil and vegetative cover on the application site to remove the pollutants contained in the applied waters through the combined processes of consumptive use and biological and chemical inactivation. (7-1-93)~~

~~601. — 649. (RESERVED).~~

~~650. SLUDGE USAGE.~~

~~01. Disposal Plans Required. Sludge can be utilized as soil augmentation only in conformance with: (7-1-93)~~

~~a. A Department approved sludge disposal plan; or (7-1-93)~~

- ~~*b.* Procedures and in a manner approved by the Department on a site-by-site basis. (7-1-93)~~
- ~~**02.** *Basis for Evaluation.* Sludge disposal plans and sludge utilization proposals will be evaluated by the Department in regard to their protection of water quality and public health. (7-1-93)~~
- ~~**03.** *Elements of Plans and Proposals.* Plans and proposals must at a minimum provide: (7-1-93)~~
- ~~*a.* That only stabilized sludge will be used. (7-1-93)~~
- ~~*b.* The criteria utilized for site selection, including: (7-1-93)~~
- ~~*i.* Soil description; (7-1-93)~~
- ~~*ii.* Geological features; (7-1-93)~~
- ~~*iii.* Groundwater characteristics; (7-1-93)~~
- ~~*iv.* Surrounding land use; (7-1-93)~~
- ~~*v.* Topography; and (7-1-93)~~
- ~~*vi.* Climate. (7-1-93)~~
- ~~*e.* A description of the application process. (7-1-93)~~
- ~~*d.* A statement detailing procedures to prevent application which could result in a reduction of soil productivity or in the percolation of excess nutrients. (7-1-93)~~
- ~~*e.* Identification of potential adverse health effects in regard to the sludge and its proposed use. (7-1-93)~~
- ~~*f.* Delineation of methods or procedures to be used to alleviate or eliminate adverse health effects. (7-1-93)~~

**651402.** -- 799. (RESERVED).

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

#### DOCKET NO. 58-0108-0501

#### 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. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, 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 September 21, 2005. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The 2005 Legislature enacted Senate Bill 1220 requiring the Department of Environmental Quality (DEQ) to establish facility and design standards. DEQ has initiated this rulemaking in response to that legislation. Portions of the existing rule, and portions of documents incorporated as rule that relate to design of drinking water line extensions, will be modified to delete from the rule some items identified as guidance. In addition, this rulemaking adds and/or renumbers the standard rule sections necessary for conformance with IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator".

Developers, cities, counties, drinking water system owners, consultants, engineers, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

**SECTION 39-107D IDAHO CODE STATEMENT:** Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in this proposed rule. Therefore, the proposed changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government". The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These standards were originally promulgated to fulfill the requirements of Section 39-118, Idaho Code, and pre-date the Safe Drinking Water Act. These proposed rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. This is an activity, however, that DEQ has regulated for years pursuant to Section 39-118, Idaho Code, and 58.01.08, "Idaho Rules for Public Drinking Water Systems" (Drinking Water Rules). To the extent DEQ is not proposing any new regulation of activities, Section 39-107D, Idaho Code, is most likely not applicable.

During the 2005 legislative session, the Idaho Legislature passed SB 1220. Among other things, this legislation amended Section 39-118, Idaho Code, so that it requires that all plans and specifications reviewed by DEQ, or by others as allowed under the new law, comply with "facility and design standards". The legislation then directs DEQ to work with professional engineers to establish such standards. DEQ currently reviews the plans and specifications according to the Drinking Water Rules, which reference the "Recommended Standards for Water Works" as a tool used in the review process. The proposed rules, however, also add explicit facility standards that must be met in the review and approval process. In this way, the proposed rules appear to modify the existing DEQ regulatory program. Under these circumstances, it is unclear whether the proposed rules are subject to the provisions of Section 39-107D, Idaho Code.

Assuming Section 39-107D, Idaho Code, is applicable, 39-107D(3) provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The proposed rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public drinking water facilities. For example, the rules require that water mains be constructed using materials that meet national standards for potable water. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the "Recommended Standards for Water Works" and the "American Water Works Association Standards," that are generally accepted and used throughout the United States by engineers and state regulators.

**IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT:** No negative impact occurs from this rulemaking; provision is not applicable.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 45.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this rulemaking, contact Tom John at (208) 373-0191, [Thomas.John@deq.idaho.gov](mailto:Thomas.John@deq.idaho.gov).

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[Paula.Wilson@deq.idaho.gov](mailto:Paula.Wilson@deq.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0501**

**002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.**

*Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual. (3-15-02)*



**01. Precedence Incorporation by Reference.** ~~In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail.~~ The following documents are incorporated by reference into these rules. (5-3-03)( )

**a.** 40 CFR Parts 141 and 143. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. ( )

**b.** Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, 2003 Edition, except Parts One (1) and Eight (8). ( )

**c.** American Water Works Association (AWWA) Standards, Edition effective July 2005, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ( )

**02. Availability of Specific Referenced Material.** Copies of specific documents ~~adopted by reference throughout~~ referenced within these rules are available ~~in~~ at the following locations: (12-10-92)( )

**a.** All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; ~~or~~ U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; ~~and~~ or <http://www.gpoaccess.gov/index.html>. (7-1-97)( )

**b.** All documents ~~herein~~ incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-1-97)( )

**c.** Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, 2003, Telephone (518) 439-7286. (4-6-05)

**d.** Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (5-3-03)

**e.** U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

**f.** Rules of the Idaho Water Resources Board, IDAPA 37.03.09, "Well Construction Standards Rules," July 1993, available at the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800. (4-6-05)

**g.** ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

**h.** ANSI/NSF Standard 53-2002e -- 2003, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

**i.** ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

**j.** ANSI/NSF Standard 58-2003 -- 2004, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

(734) 769-8010.

(4-6-05)

**k.** American Water Works Association (AWWA) Standards, ~~*Edition effective July, 2004*~~, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ~~(4-6-05)~~( )

**l.** ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

**m.** ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

**n.** "Cross Connection Control Manual," December 1995 Edition, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. (5-3-03)

**o.** "Idaho Guidance for Public Drinking Water Systems," 2005 Edition, and subsequent revisions, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov). ( )

**p.** "Idaho Standards for Public Works Construction," 2005 Edition, and subsequent revisions, Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565. ( )

**q.** Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, April 2003, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov). ( )

**03. Precedence.** In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. ( )

**003. DEFINITIONS.**

The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person". (5-3-03)

***There Are No Changes to Subsections 003.01 Through 003.30***

**31. Facility Standards and Design Standards.** Facility standards and design standards are described in Sections 549 through 552 of these rules. Facility and design standards found in Sections 549 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. ( )

**32. Fee Assessment.** A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

**33. Filter Profile.** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

**34. GAC10.** Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

**35. Groundwater System.** A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

**36. Groundwater Under the Direct Influence of Surface Water.** Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as

Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (5-3-03)

**367. Haloacetic Acids (Five) (HAA5).** The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

**378. Health Hazards.** Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

**389. Inorganic.** Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

**390. Laboratory Certification Reciprocity.** Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

**401. License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-05)

**42. Log.** Logarithm to the base ten (10). (12-10-92)

**43. Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. ( )

**44. Material Modification.** For the purpose of plan and specification review requirements as specified in Subsection 551.04, those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. ( )

**425. Maximum Daily Consumption Rate.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

**436. Maximum Hourly Demand.** The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

**447. Maximum Residual Disinfectant Level (MRDL).** A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

**458. Maximum Residual Disinfectant Level Goal (MRDLG).** The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and

which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

**469. Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

**4750. New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

**4851. Noncommunity Water System.** A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

**52. Non-Potable Mains.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. ( )

**53. Non-Potable Services.** The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. ( )

**4954. Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)

**505. Nuclear Facility.** Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

**546. Operating Shift.** That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

**527. Owner/Purveyor of Water/Supplier of Water.** The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-6-05)

**538. Peak Hourly Flow.** The highest hourly flow during any day. (12-10-92)

**549. Person.** A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

**5560. Pesticides.** Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

**61. Potable Water Mains.** Pipelines that deliver potable water to multiple service connections. ( )

**62. Potable Water Services.** Pipelines that convey potable water from a connection to the potable water main to individual consumers. ( )

**563. Public Notice.** The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

**5764. Public Drinking Water System.** A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen

(15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system". (4-6-05)

**5865. Public Water System/Water System/System.** Means "public drinking water system". (4-5-00)

**66. Quasi-Municipal Corporation.** A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. ( )

**5967. Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)

**608. Responsible Charge (RC).** Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

**649. Responsible Charge Operator.** An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (4-6-05)

**70. Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 551.04.a. of these rules, the qualified licensed professional engineer is also the reviewing authority. ( )

**6271. Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)

**6372. Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

**6473. Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

- a. Source; (4-5-00)
- b. Treatment; (4-5-00)
- c. Distribution system; (4-5-00)
- d. Finished water storage; (4-5-00)
- e. Pumps, pump facilities, and controls; (4-5-00)
- f. Monitoring and reporting and data verification; (4-5-00)
- g. System management and operation; and (4-5-00)
- h. Operator compliance with state requirements. (4-5-00)

**6574. SDWIS-State.** An acronym that stands for "Safe Drinking Water Information System-State"

Version". It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

**6675. Significant Deficiency.** As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

**676. Special Irrigation District.** An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (4-6-05)

**6877. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

**6978. Substitute Responsible Charge Operator.** An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

**709. Surface Water System.** A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

**7180. Specific Ultraviolet Absorption (SUVA).** SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in  $m^{-1}$ ) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)

**7281. Total Organic Carbon (TOC).** Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

**7382. Transient Noncommunity Water System.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)

**7483. Treatment Facility.** Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

**7584. Turbidity.** A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

**7685. Uncovered Finished Water Storage Facility.** An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection. (5-3-03)

**7786. Unregulated Contaminant.** Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

**787. Variance.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deferment does not cause an unreasonable risk to public

health. (12-10-92)

**7988. Very Small Public Drinking Water System.** A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

**809. Volatile Organic Chemicals (VOCs).** VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

**8190. Vulnerability Assessment.** A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

**8291. Waiver.** (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, “waiver” means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

**8392. Water for Human Consumption.** Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water”, “drinking water,” and “potable water” are frequently used as synonyms. (5-3-03)

**8493. Water Main.** A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. (5-3-03)

**94. Water Main Extension.** As used in Subsection 551.04, an extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. ( )

**895. Well House.** A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, distribution line, or a treatment unit. Well houses are often called pump houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (4-6-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**013. USE OF GUIDANCE.**

Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility standards and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the reviewing authority not substitute his or her judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. ( )

**~~996~~014. ADMINISTRATIVE PROVISIONS.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

**~~997~~015. CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality". (3-15-02)

**016. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )

**~~013~~017. -- 049. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**549. FACILITY AND DESIGN STANDARDS - DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.**

No person shall proceed, or cause to proceed, with construction of a new community or nontransient, noncommunity drinking water system until it has been demonstrated to the Department that the water system will have adequate technical, financial, and managerial capacity, as defined in Section 003 of these rules. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 551.04 of these rules. The Department shall issue its approval of the new system capacity demonstration in writing. (4-5-00)( )

**01. Technical Capacity.** In order to meet this requirement, the public water system shall submit documentation to demonstrate the following: (4-5-00)

**a.** The system meets the relevant design, construction, and operating requirements of Sections 550, 551, and 552 of these rules; (4-5-00)

**b.** The system has an adequate and consistent source of water; (4-5-00)

**c.** A plan is in place to protect the water source and deal with emergencies; (4-5-00)

**d.** A plan exists for replacement or improvement of infrastructure as necessary; and (4-5-00)

**e.** The system has trained personnel with an understanding of the technical and operational characteristics of the system. (5-3-03)

**02. Financial Capacity.** A demonstration of financial capacity must include but is not limited to the following information: (4-5-00)

**a.** Documentation that organizational and financial arrangements are adequate to construct and operate the public water system in accordance with these rules (see Sections 550, 551, and 552). This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (4-5-00)

**b.** Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for



depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (4-5-00)

c. Adequate fiscal controls must be demonstrated. (4-5-00)

**03. Managerial Capacity.** In order to demonstrate adequate managerial capacity, the owner and/or operator of a new drinking water system shall submit at least the following information to the Department: (4-5-00)

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; (4-5-00)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the water system is in compliance with these rules; (4-5-00)

c. The name, address, and telephone number of the system operator; (4-5-00)

d. A description of the manner in which the water system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information; (4-5-00)

e. A description of staffing should be provided, including training, experience, certification or licensing, and continuing education completed by the water system staff; (4-5-00)

f. An explanation of how the water system will establish and maintain effective communications and relationships between the water system management, its customers, professional service providers, and any applicable regulatory agencies; and (4-5-00)

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (4-5-00)

**04. Submittal Form.** The Department shall provide a standard form to be used in preparing a new system capacity demonstration. (4-5-00)

**05. Expanding Systems.** A public water system which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new system under these rules and is subject to all design, construction and operating requirements herein. (4-5-00)

**06. Consolidation.** In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-5-00)

**07. Exclusion.** New public water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. (4-5-00)

**550. FACILITY AND DESIGN STANDARDS - DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.**

**01. System Design.** Unless otherwise specified by the Department, the design of new drinking water systems, or modifications to existing, public drinking water systems shall be in conformance with these rules and "Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers," ~~as set forth in~~

~~Subsection 002.02.e~~ except Parts One (1) and Eight (8).

~~(4-6-05)~~( )

**02. Materials.** Unless otherwise authorized by the Department on a site-specific basis, materials that are used to construct public drinking water systems and have water contact surfaces must comply with applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 53, 58, or 61. Corrosion control shall be taken into account during all aspects of public water system design. (4-6-05)

**03. Wells.** Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (12-10-92)

**a.** Prior to drilling, the site of a PWS well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (5-3-03)

- i. An evaluation of the potability and quality of anticipated groundwater. (5-3-03)
- ii. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)
- iii. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)
- iv. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models. (5-3-03)
- v. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (5-3-03)
- vi. Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

**b.** Each well shall be located a minimum of fifty (50) feet from any potential source of contamination and no closer to specified sources of contamination than set forth in Subsection 900.01; in vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination; (5-3-03)

**c.** Each well shall comply with the minimum Well Construction Standards and with the permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f.; except that no public water system well shall have less than fifty-eight (58) feet of annular seal of not less than two (2) inches thickness, unless: (5-3-03)

- i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)
- ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)
- iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)

**d.** All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f. This applies to new well construction and repair of existing wells. (5-3-03)

**e.** Upon completion of a groundwater source, and prior to its use as drinking water, the following

- information and data must be submitted by the water system to the Department: (5-3-03)
- i. A copy of all well logs; (12-10-92)
  - ii. Results of test pumping, as specified in Subsection 550.03.f.; (5-3-03)
  - iii. As constructed plans showing at least the following: (12-10-92)
    - (1) Annular seal, including depth and sealant material used and method of application; (5-3-03)
    - (2) Casing that meets the requirements set forth in Section 3.2.5.4 of Recommended Standards for Water Works, including weights and thicknesses specified in Table 1 of that publication; (5-3-03)
    - (3) Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)
    - (4) Pump location; and (12-10-92)
    - (5) For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. (5-3-03)
  - iv. Other information as may be specified by the Department. (12-10-92)
  - v. Sampling results for iron, manganese, corrosively, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsection 551.01. (5-3-03)
- f.** Test pumping. Upon completion of a groundwater source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)
- i. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown has stabilized. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown has stabilized. In either case, if the drawdown does not stabilize, the pumping must continue for at least seventy-two (72) consecutive hours. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, the well design shall be re-evaluated and submitted to the Department for approval. (5-3-03)
  - ii. Fifteen (15) minutes after the start of the test pumping, the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, and re-developed. (5-3-03)
  - iii. The following data shall be provided: (5-3-03)
    - (1) Static water level in the well prior to test pumping; (5-3-03)
    - (2) Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)
    - (3) Water level in the well recorded at regular intervals during pumping; (5-3-03)
    - (4) Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)
    - (5) Depth at which the test pump was positioned in the well; (5-3-03)

- (6) Test pump capacity and head characteristics; (5-3-03)
- (7) Sand production data. (5-3-03)
- (8) Any available results of analysis based on the drawdown and recovery test pertaining to aquifer properties, sustained yield, and boundary conditions affecting drawdown. (5-3-03)
- iv. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 550.03.d.iii. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (5-3-03)
- v. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site specific investigations that could include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer is sufficient to meet the long-term water requirements of the project. ( )
- g. A smooth-nosed sample tap shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. Any threaded taps installed in the wellhouse must be equipped with an appropriate backflow prevention device. (5-3-03)
- h. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap at a location prior to the first service connection; (4-6-05)
- i. A pressure gauge shall be provided at all installations; (12-10-92)
- j. A totalizing flow meter shall be installed on the discharge line of each well. An accessible check valve shall be installed above ground in the discharge line of each well; (5-3-03)
- k. All wells except flowing artesian wells shall be vented, with the open end of the vent screened and terminated downward at least eighteen (18) inches above the final ground surface. (4-6-05)
- l. The following requirements apply to well casings and seals: (12-10-92)
- i. Casings shall extend a minimum of eighteen (18) inches above the final ground surface and, if the well is located within a well house, twelve (12) inches above the well house floor. (4-6-05)
- ii. Wells shall be cased and sealed in such a manner that surface water cannot enter the well. (12-10-92)
- iii. A watertight seal shall be provided at the top of the well casing, and shall not allow water to enter the well. (12-10-92)
- iv. Wells completed in unconsolidated water bearing formations shall be constructed to prevent caving of the walls of the well and sand pumping. Screens and/or gravel packs shall be provided where fine grained materials such as sands are being developed as the source of water. (12-10-92)
- m. The following requirements apply to well houses as defined in Section 003, unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: (4-6-05)
- i. Well houses shall be protected from flooding and be adequately drained. The floor surface shall be at least six (6) inches above the final ground surface. An electrically powered ventilation fan or automated air flow system shall be provided to remove excess heat and moisture during peak summer temperatures. If the well operates

year round, a thermostatically regulated heater shall also be installed to prevent moisture buildup during cold weather. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (4-6-05)

ii. Well houses shall be provided with a locking door or access to prohibit unauthorized entrance. Plans and specifications for well houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (5-3-03)

iii. Well houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials. (12-10-92)

iv. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. (12-10-92)

v. Sumps for well house floor drains shall not be closer than thirty (30) feet from the well. (12-10-92)

vi. Pitless adapters or pitless units: (12-10-92)

(1) Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

(2) Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

(3) Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," as set forth in Subsection 002.02.d., or other procedure approved by the Department shall be followed. (5-3-03)

n. Wells shall not be located in pits. Exceptions to Subsection 550.03.1. will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (12-10-92)

o. A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (12-10-92)

p. New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. With any source out of service, the remaining source or sources shall be capable of providing either the peak hour demand of the system or maximum daily pumping demand plus equalization storage. The Department shall consider a system to be "substantially modified" when there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the following factors: (4-6-05)

i. Population served or number of service connections; (5-3-03)

ii. Length of water mains; (5-3-03)

iii. Peak or average water demand per connection. (5-3-03)

q. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (12-10-92)

r. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other toxic or hazardous materials shall be stored on a well lot, except that: (5-3-03)

- i. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)
- ii. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)
- iii. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (4-6-05)
- iv. Should the internal combustion engine be located within the well house, the floor of the well house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the well house. (5-3-03)
- v. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. (4-6-05)

**04. Springs.** For new spring sources, the Department may require a site evaluation report as set forth for wells in Subsection 550.03.a. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (5-3-03)

- a. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust; (12-10-92)
- b. A sample tap shall be provided; (12-10-92)
- c. A flow meter or other flow measuring device shall be provided; and (12-10-92)
- d. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water and drainage ditches shall be diverted from this area. (5-3-03)

**05. Surface Sources and Groundwater Sources Under the Direct Influence of Surface Water.** (10-1-93)

- a. Design Criteria. (12-1-92)
  - i. The system shall ensure that filtration and disinfection facilities for surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. (12-10-92)
  - ii. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of *Giardia lamblia* cysts and one (1) log removal of viruses, except as allowed under Subsection 550.05.b.iii.; and (10-1-93)
  - iii. Disinfection facilities shall be designed, constructed and operated so as to achieve at least one half (0.50) log inactivation of *Giardia lamblia* cysts; and (10-1-93)
    - (1) Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)
    - (2) Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

- (3) Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)
- (4) Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)
- iv. Higher levels of disinfection than specified under Subsection 550.05.a.iii. may be required by the Department in order to provide adequate protection against giardia and viruses. (10-1-93)
- v. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. (12-10-92)
- vi. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (12-10-92)
- vii. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter bed. (5-3-03)
- viii. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (12-10-92)
- ix. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (12-10-92)
- b.** Filtration technology. (12-10-92)
  - i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)
  - ii. Conventional, direct, membrane, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (5-3-03)
  - iii. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)
    - (1) That the filtration technology: (12-10-92)
      - (a) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)
      - (b) Removes or inactivates at least ninety-nine (99%) percent (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. (12-10-92)
    - (2) Using field studies or other means acceptable to the Department, that the filtration technology: (12-10-92)
      - (a) In combination with disinfection treatment, consistently achieves at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (5-3-03)
      - (b) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)
  - c.** Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)
    - i. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is

- constructed and before the pilot study is undertaken. (12-10-92)
- ii. The design and operation of the pilot study shall be overseen by a licensed professional engineer. (12-10-92)
  - iii. The system's pilot study plan shall identify at a minimum: (12-10-92)
    - (1) The objectives of the pilot study; (12-10-92)
    - (2) Pilot filter design; (12-10-92)
    - (3) Water quality and operational parameters to monitor; (12-10-92)
    - (4) Amount of data to collect; and (12-10-92)
    - (5) Qualifications of the pilot plant operator. (10-1-93)
  - iv. The system shall ensure that the pilot study is: (12-10-92)
    - (1) Conducted to simulate conditions of the proposed full-scale design; (12-10-92)
    - (2) Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)
    - (3) Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)
    - (4) Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)
- d.** New systems constructed after July 1, 1985, are required to install redundant disinfection components as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. (5-3-03)
- 06. Distribution System.** Any supplier of water for a public water system shall ensure that the distribution system complies with all of the following requirements: (12-10-92)
- a.** The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (12-10-92)
  - b.** All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (5-3-03)
  - c.** All source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped. (4-6-05)
  - d.** Booster pumps must comply with the following: (12-10-92)
    - i. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (5-3-03)
    - ii. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. (4-6-05)



iii. Buildings enclosing booster pump stations shall be provided with an electrically powered ventilation fan or automated air flow system to remove heat and moisture during peak summer temperatures. If the facility is operated year round, a thermostatically regulated heater shall be installed to prevent moisture buildup during cold weather. (5-3-03)

e. Pipe and jointing materials ~~and standards will~~ comply with the ~~following~~ standards set forth in Subsection 550.02. Pipe shall be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the system. Where distribution systems are installed in areas of ground water contaminated by organic compounds: (12-10-92)( )

i. Pipe, ~~packing~~ and jointing materials ~~shall be manufactured, installed and tested in conformance with the current standards of the American Water Works Association, as set forth in Subsection 002.02.k., or other standards approved in writing by the Department.~~ which do not allow permeation of the organic compounds shall be used; and (4-6-05)( )

ii. ~~Pipe shall be manufactured of materials resistant internally or externally to corrosion, and not imparting tastes, odors, color or any contaminant into the system.~~ Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections. (12-10-92)( )

iii. ~~All distribution system appurtenances shall comply with AWWA Standards, as set forth in Subsection 002.02.k.~~ (4-6-05)

f. Fire hydrants shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (5-3-03)

g. ~~Water and non-potable water mains shall be separated by a horizontal distance no less than ten (10) feet. In any instance where such separation is not achievable, the following standards shall be met~~ The relation between potable and non-potable water mains shall be as follows: (5-3-03)( )

i. ~~The water and non-potable water mains shall be separated by at least six (6) horizontal feet measured between the outside walls of the pipes, and the non-potable main shall be constructed to water main standards; and~~ Non-potable mains in relation to potable water mains. (4-6-05)( )

(1) Parallel installation requirements: ( )

(a) Greater than ten (10) feet separation: no conditions. ( )

(b) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main to be constructed with potable water class pipe. ( )

(c) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment and non-potable main to be constructed of potable water class pipe. ( )

(d) Potable and non-potable water mains shall never be installed in the same trench. ( )

(2) Non-potable mains crossing potable water mains requirements: ( )

(a) Eighteen (18) inches or more vertical separation with potable water main above non-potable main. Non-potable main joint to be as far as possible from the potable water main. ( )

(b) Less than eighteen (18) inches vertical separation: Non-potable main constructed with potable water class pipe and non-potable main joint as far as possible from potable water main, or sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ( )

ii. ~~The water main shall be a minimum of eighteen (18) inches above the non-potable water main.~~  
Non-potable services in relation to potable services and non-potable services in relation to water mains.

~~(4-6-05)~~( )

(1) Parallel installation requirements: ( )

(a) Greater than six (6) feet separation: no conditions. ( )

(b) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. ( )

(c) Never in the same trench. ( )

(2) Non-potable services crossing potable water services or potable water mains requirements: ( )

(a) Eighteen (18) inches or more vertical separation with potable water service or main above non-potable service; non-potable joint as far as possible from crossing. ( )

(b) Less than eighteen (18) inches vertical separation or potable water service or main below non-potable service; non-potable service or main constructed with potable water class pipe and non-potable joint as far as possible from crossing; or, sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ( )

~~h.~~ The requirements for vertical separation of water and non-potable water mains are as follows:  
~~(4-6-05)~~

~~i.~~ At any point where the non-potable water and water mains cross, they shall be separated by a vertical distance of no less than eighteen (18) inches.  
~~(5-3-03)~~

~~ii.~~ At any point where the non-potable water main crosses above the water main, the non-potable water main shall be supported to prevent settling.  
~~(5-3-03)~~

~~iii.~~ At any point where the non-potable water and water mains cross, the water main shall be centered at the crossing so that the joints will be an equal distance and as far as possible from the non-potable water main.  
~~(5-3-03)~~

~~iv.~~ If the eighteen (18) inch vertical separation cannot be maintained, the non-potable water main shall be constructed of materials conforming to water main standards.  
~~(4-6-05)~~

~~v.~~ In lieu of constructing or reconstructing the non-potable water main either the non-potable water main or water main may be protected by a sleeving material acceptable to the Department for a distance of ten (10) horizontal feet on both sides of the crossing.  
~~(4-6-05)~~

~~h.~~ A minimum horizontal distance of twenty-five (25) feet shall be maintained between ~~a~~ any water distribution pipe and a septic tank and subsurface sewage disposal system ~~and any water distribution pipe.~~  
~~(12-10-92)~~( )

~~ji.~~ All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of ~~five~~ two and one-half (2.5) feet per second.  
~~(5-3-03)~~( )

~~i.~~ Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. ( )

~~ii.~~ No water main flushing device shall be directly connected to any sewer. ( )

~~h~~**j.** Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association standards as set forth in Subsection 002.02.k. (4-6-05)

~~h~~**k.** Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (5-3-03)

~~m~~**l.** All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. (5-3-03)

~~n~~**m.** All new public water systems that are constructed where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and ii., plus a static compensation from the elevation of the main to the elevation of each building site. (5-3-03)

i. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)

ii. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)

~~n.~~ A sufficient number of valves shall be provided on water mains to minimize inconvenience and sanitary hazards during repairs. ( )

~~o.~~ Automatic air relief valves shall be equipped with a means of backflow protection. ( )

~~p.~~ Surface water crossings, whether over or under water, shall be constructed as follows: ( )

i. Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. ( )

ii. Under water crossings: A minimum cover of two (2) feet shall be provided over the pipe. When crossing a water course that is greater than fifteen (15) feet in width, the following shall be provided: ( )

(1) The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints:  
and ( )

(2) Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible and not subject to flooding; and ( )

(3) Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples shall be made on each side of the valve closest to the supply source. ( )

**07. Cross Connection.** There shall be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. (~~5-3-03~~)( )

**a.** All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. Reference should be made to the AWWA "Cross Connection Control Manual," as specified in Subsection 002.02.n. of these rules. The program will include: (4-6-05)

i. An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-3-03)

- ii. Required installation and operation of adequate backflow prevention assemblies. A selection chart for various facilities, fixtures, equipment, and uses of water is provided in Subsection 900.02 (Table 2). (4-6-05)
  - iii. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. (4-6-05)
  - iv. Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. (12-10-92)
  - v. If double check valves and/or reduced pressure principle backflow prevention assemblies and/or pressure vacuum breakers are used, they must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research and meet the American Water Works Association C-510 or C-511 standard, or an equivalent standard approved by the Department. (4-6-05)
  - vi. If atmospheric vacuum breakers and pressure vacuum breakers are used, they shall be marked approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (10-1-93)
  - vii. Resilient seated shutoff valves shall be used after the effective date of these rules when double check valves, reduced pressure backflow prevention assemblies, and pressure vacuum breakers are installed. (5-3-03)
  - b. All suppliers of water for non-community water systems shall ensure that cross-connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected for functionality on a regular basis by a licensed tester, as specified in Subsection 550.07.a.iii. (4-6-05)
- 08. Water Storage.** Storage reservoirs shall be constructed and maintained so that the following requirements are met: (12-10-92)
- a. All storage reservoirs shall be protected from flooding; (12-10-92)
  - b. Stored water shall be protected from contamination; (12-10-92)
  - i. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (5-3-03)
  - ii. No storage tank or clear well located below ground level is allowed within fifty (50) feet of a sanitary sewer or septic tank. However, if the sanitary sewer is constructed to water main standards, the minimum separation distance is ten (10) feet. (5-3-03)
  - c. All storage reservoirs shall have watertight roofs or covers and be sloped so that water will drain; (12-10-92)
  - d. Manholes shall be fitted with an overlapping watertight locked cover and be at least four (4) inches above the surface of the roof. At least two (2) manholes located above the water line shall be provided where space permits. (5-3-03)
  - e. Overflows shall be downturned, discharge to daylight, and be provided with either: (4-6-05)
    - i. A twenty-four (24) mesh noncorrodible screen installed within the pipe when practical, or; (4-6-05)
    - ii. An expanded metal screen installed within the pipe plus a weighted flapper valve, or; (4-6-05)
    - iii. An equivalent system acceptable to the Department. (4-6-05)

**f.** Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. (4-6-05)

**g.** Any vent shall extend twelve (12) inches above the roof and be constructed and screened to exclude rain, snow, birds, animals, insects, dust and other potential sources of contamination; (12-10-92)

**h.** The bottom of any reservoir located below the ground surface shall be constructed a minimum of four (4) feet above the high groundwater table; and (12-10-92)

**i.** There shall be a minimum distance of fifty (50) feet between any buried or partially buried storage reservoir and any sanitary sewers, storm sewers, or any other source of contamination. The area around ground level reservoirs shall be graded in a manner that will prevent standing water within ten (10) feet. (5-3-03)

**j.** Hydroneumatic (pressure) tanks shall be acceptable for small water systems serving up to one hundred fifty (150) homes. (5-3-03)

**k.** Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (5-3-03)

**l.** All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (5-3-03)

**09. Disinfection.** Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system will be flushed and disinfected in accordance with American Water Works Association Standards, as set forth in Subsection 002.02.k., prior to being placed into service. (4-6-05)

**10. Violations.** Any failure to comply with any provision contained in Section 550 shall be considered a design or construction defect. (12-10-92)

**551. FACILITY AND DESIGN STANDARDS - CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.**

**01. Engineering Report.** For all new water systems or material modifications to existing water systems, an engineering report shall be submitted for ~~the Department's~~ review and approval by the Department, or other reviewing authority in the case of water main extensions, prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information:

(12-10-92)(\_\_\_\_)

**a.** A general description and location of the project; (12-10-92)

**b.** The estimated design population of the project; (12-10-92)

**c.** Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)

**d.** Storage requirements; (12-10-92)

**e.** Pressure ranges for normal and peak flow conditions; (12-10-92)

**f.** A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. (5-3-03)

**g.** Adequacy, quality and availability of sources of water. A water system that is to be served by a separate non-potable irrigation system must provide documentation of legal water rights sufficient to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system.

(5-3-03)

h. Describe the sewerage system and sewage treatment works, with special reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply. ( )

i. Characterize the various wastes from the water treatment plant, if applicable, their volume, constituents, proposed treatment and disposal. If discharging to a sanitary sewerage system, verify that the system is capable of handling the flow to the treatment works and that the treatment works is capable and willing to accept the additional loading. ( )

~~h~~j. For a community system, results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)

~~i~~k. For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)

l. For a transient noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (5-3-03)

~~h~~m. For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (12-10-92)

n. For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water. (12-10-92)

~~h~~o. Potential sources of contamination to proposed sources of water; (12-10-92)

~~h~~p. Mechanisms for protection of the system from flooding; (12-10-92)

q. In addition to the items listed in Subsections 551.01.a. through 551.01.~~h~~p., the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (~~12-10-92~~)( )

i. Hydrological and historical ~~low~~ stream flow data; (~~12-10-92~~)( )

ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)

iii. Anticipated turbidity ranges, high and low; and (12-10-92)

iv. Treatment selection process and alternative evaluations. (12-10-92)

r. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for a proposed groundwater source: (12-10-92)

i. A site evaluation report as required in Subsection 550.03.a. for wells and Subsection 550.04 for springs; (5-3-03)

ii. Dimensions of the well lot; and (12-10-92)

iii. Underground geological data and existing well logs. (12-10-92)

iv. If the water is to be treated, summarize the adequacy of proposed processes and unit parameters for the treatment of the specific water. Bench scale testing, pilot studies, or demonstrations of treatment adequacy may be

required. ( )

s. Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: ( )

i. The character of the soil through which water mains are to be laid; ( )

ii. Foundation conditions prevailing at sites of proposed structures; and ( )

iii. The approximate elevation of ground water in relation to subsurface structures. ( )

**02. Ownership.** Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

**03. Connection to an Existing System.** If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

**04. Review of Plans and Specifications.** "Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers" except Parts One (1) and Eight (8), and all applicable laws, rules, and standards shall be applied in the review of plans and specifications for public water system facilities. With respect to water main extensions, as defined in Section 003, these rules shall apply. "Idaho Guidance for Public Drinking Water Systems" shall be used only to provide assistance in applying and interpreting these rules. (12-1-92)( )

a. Prior to construction of new public drinking water systems, new drinking water systems designed to serve ten (10) or more service connections, or material modifications of existing public water systems, plans and specifications must be submitted to the Department for review; and ~~approved approval~~. ~~The minimum review requirements are as follows:~~ Plans and specifications for water main extensions shall not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a qualified Idaho licensed professional engineer who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. (4-6-05)( )

b. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgement for that of the owner's design engineer concerning the manner of compliance with the rule. ( )

c. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 551.04.c, with such records including the final decision rendered and the timeliness thereof. ( )

d. Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; except that the Department will accept the seal of an Idaho registered professional geologist on the following: (5-3-03)

- ~~(1)~~i. Well or spring source site evaluation reports, as specified in Subsections 550.03.a. and 550.04. (5-3-03)
- ~~(2)~~ii. Plans and specifications for well construction and results of field inspection and testing, as specified in Subsections 550.03.e. and 550.03.f. (5-3-03)
- ii. ~~Plans shall provide topographical data; (12-10-92)~~
- iii. ~~Plans shall show location of sources or potential sources of contamination. If a separate, non-potable irrigation system is to be provided, the irrigation system shall be fully documented in the plans and specifications; (5-3-03)~~
- iv. ~~Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.02.k. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and (4-6-05)~~
- v. ~~Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.02.k. (4-6-05)~~
- e. Plans and specifications shall, where pertinent, provide the following: ( )
  - i. General layout, including: ( )
    - (1) Suitable title: ( )
    - (2) Name of municipality or other entity or person responsible for the water supply; ( )
    - (3) Area or institution to be served; ( )
    - (4) Scale of drawings; ( )
    - (5) North point; ( )
    - (6) Datum used; ( )
    - (7) General boundaries of municipality or area to be served; ( )
    - (8) Date, name, and address of the designing engineer; ( )
    - (9) Legible prints suitable for reproduction; ( )
    - (10) Location and size of existing water mains, if applicable; and ( )
    - (11) For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. ( )
  - ii. Detailed plans, including: ( )
    - (1) Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels; ( )
    - (2) Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets; ( )
    - (3) Topography and arrangement of present or planned wells or structures; ( )
    - (4) Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper



termination of protective casings, and grade surrounding facilities; ( )

(5) Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Subsection 550.03.e; ( )

(6) Location of all known existing and potential sources of pollution which may affect the water source or underground treated storage facilities; ( )

(7) Size, length, and materials of proposed water mains; ( )

(8) Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools; ( )

(9) Schematic flow diagrams and hydraulic profiles showing the flow through various plant units; ( )

(10) Piping in sufficient detail to show flow through the plant including waste lines; ( )

(11) Locations of all chemical storage areas, feeding equipment, and points of chemical application; ( )

(12) All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures; ( )

(13) Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department; ( )

(14) Locations, dimensions, and elevations of all proposed plant facilities; ( )

(15) Locations of all sampling taps; and ( )

(16) Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. ( )

iii. Complete, detailed technical specifications shall be supplied for the proposed project, including; ( )

(1) A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service; ( )

(2) Laboratory facilities and equipment; ( )

(3) Description of chemical feeding equipment; ( )

(4) Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service; ( )  
and

(5) Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. ( )

iv. Complete design criteria, as set forth in these rules.

v. The Department may require additional information which is not part of the construction drawings, including but not limited to head loss calculations, proprietary technical data, and copies of contracts. ( )

bf. Except for water main extensions, as set forth in Subsection 551.04.a., during construction or

modification, the Department must be notified of any substantial material deviation from the approved plans. The Department's prior written approval is required before any substantial material deviation is allowed. ~~(4-6-05)~~( )

~~**e.** Within thirty (30) days after the completion of construction, the water system shall submit to the Department plans and specifications prepared and stamped by an Idaho registered professional engineer responsible for supervision of construction observation on behalf of the owner. These plans and specifications shall depict the actual construction and illustrate alterations or modifications performed, based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer. (4-6-05)~~

~~**d.** If actual construction of the water system does not deviate from the originally approved plans and specifications, the water system may submit a written statement to this effect, prepared and stamped by an Idaho registered professional engineer. This statement shall be based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer. (5-3-03)~~

**g.** Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 551.04.a., record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by a qualified Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. ( )

**05. Exception.** A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has reviewed the project and will inspect it during construction. The Department may waive the plan and specification approval required of any particular facility or category of facilities when doing so will have no significant impact on public health or the environment. ~~(5-3-03)~~( )

**06. Construction.** No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)

**07. Source.** Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)

**08. Installation of Water Mains.** Division 400 of "Idaho Standards for Public Works Construction," as specified in Subsection 002.02.p., may be used as guidance for installation of water mains. In addition, the following provisions shall apply: ( )

**a.** Installed pipe shall be pressure tested and leakage tested in accordance with the applicable AWWA Standards or manufacturer's standard for high-density polyethylene. ( )

**b.** New, cleaned, and repaired water mains shall be disinfected in accordance AWWA Standard C651. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. ( )

**c.** In areas where aggressive soil conditions are suspected or known to exist, analyses shall be performed to determine the actual aggressiveness of the soil. If soils are found to be aggressive, action shall be taken to protect metallic joint restraints and the water main, such as encasement in polyethylene, provision of cathodic protection, or use of corrosion resistant materials. ( )

**d.** The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two (2) systems. ( )

e. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench shall be removed for a depth of at least six (6) inches below the bottom of the pipe. ( )

f. Water mains shall be covered with sufficient earth or other insulation to prevent freezing. ( )

g. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement. ( )

**089. Well Abandonment.** Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the groundwater, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. (5-3-03)

**552. FACILITY AND DESIGN STANDARDS - OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.**

**01. Quantity and Pressure Requirements.** (12-1-92)

**a.** Minimum Quantity. The capacity of a public drinking water system shall in no instance be less than eight hundred (800) gallons per day per residence, plus irrigation flows. (5-3-03)

**b.** Minimum Pressure. (12-1-92)

**i.** Any public water system shall be capable of providing sufficient water during maximum hourly demand conditions (including fire flow) to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. (~~5-3-03~~)( )

**ii.** Any public water system constructed or significantly modified after July 1, 1985, shall maintain a minimum pressure of forty (40) psi throughout the distribution system, ~~at peak hour flow during peak day of the year, during maximum hourly demand conditions~~, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. (~~5-3-03~~)( )

(1) Existing water systems that are planning to expand their service area shall meet the criteria in Subsections 552.01.b.i. and 552.01.b.ii. in the new service area. ~~Such systems should upgrade pressure standards in the existing system at the same time as the expansion occurs.~~ (~~5-3-03~~)( )

(2) Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. (5-3-03)

**iii.** Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing devices installed in the distribution main. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. (5-3-03)

**iv.** The Department may allow the installation of booster pump systems at individual service connections on a case by case basis. However, such an installation may only occur with the full knowledge and agreement of the public water system, including assurance by the water system that the individual booster pump will cause no adverse effects on system operation. ( )

iv. When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system. (5-3-03)

c. Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (5-3-03)

d. Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate. (5-3-03)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. (5-3-03)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. (5-3-03)

ii. The requirement of Subsection 552.01.d.i. may be modified by the Department if: (5-3-03)

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. (5-3-03)

iii. If a separate nonpotable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as nonpotable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (5-3-03)

**02. Additives.** No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable American Water Works Association Standards as set forth in Subsection 002.02.k., and be listed as approved under ANSI/NSF standard 60 or 61, as ~~set forth~~ specified in Subsections 002.02.l. and 002.02.m. (4-6-05)( )

**03. Groundwater.** (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by groundwater, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by groundwater if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

i. Location of possible sources of contamination; (12-10-92)

ii. Size of the well lot; (12-10-92)

iii. Depth of the source of water; (12-10-92)

iv. Bacteriological quality of the aquifer; (12-10-92)

v. Geological characteristics of the area; and (12-10-92)

vi. Adequacy of development of the source. (12-10-92)

**04. Operating Criteria.** The operating criteria for systems supplied by surface water or groundwater under the direct influence of surface water shall be as follows: (12-10-92)

**a.** Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation. (12-10-92)

**b.** The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes - Upper Mississippi River Board of Public Health and Environmental Managers as set forth in Subsection 002.02.c., or other equal standard designated by the Department. (4-6-05)

**c.** New treatment facilities shall be operated in accordance with Subsection 552.04.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (12-10-92)

**05. Chlorination.** Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Section 300 and Subsection 550.05. (4-6-05)

**a.** Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: (4-6-05)

i. Chlorinator capacity shall be such that the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%) inactivation of viruses. The required contact time will be specified by the Department. This condition must be attainable even when the maximum hourly demand coincides with anticipated maximum chlorine demands. (4-6-05)

ii. A detectable chlorine residual shall be maintained throughout the distribution system. (4-6-05)

iii. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)

iv. Analysis for free chlorine residual shall be made at least daily and records of these analyses shall be kept by the supplier of water for at least one (1) year. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

v. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)

vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.05.a.i. (4-6-05)

vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.02.c. (12-10-92)

**b.** Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements: (4-6-05)

i. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (4-6-05)

ii. Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.05.b.ii. also apply if the system maintains a chlorine residual in the distribution system. (4-6-05)

**06. Fluoridation.** (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association Standards are acceptable as set forth in Subsection 002.02.k. Use of other chemicals shall be specifically approved by the Department. (4-6-05)

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five percent (5%) of the intended dose. (12-10-92)

c. Fluoride compounds shall be stored in covered or unopened shipping containers. Storage areas shall be ventilated. (12-10-92)

d. Provisions shall be made to minimize the quantity of fluoride dust. (12-10-92)

e. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

**(BREAK IN CONTINUITY OF SECTIONS)**

**901. -- ~~995999~~. (RESERVED).**

***Section 996 Has Been Moved to Section 014***

***Section 997 Has Been Moved to Section 015***

**~~998. INCLUSIVE GENDER.~~**

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (10-1-93)~~

**~~999. SEVERABILITY.~~**

~~Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules For Public Drinking Water Systems," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of these rules. (10-1-93)~~

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.13 - RULES FOR ORE PROCESSING BY CYANIDATION

#### DOCKET NO. 58-0113-0502 (FEE RULE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, 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 September 21, 2005. 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 no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) has initiated this rulemaking for the purpose of making revisions to the "Rules for Ore Processing by Cyanidation" in response to the Idaho Conservation League's Petition for Initiation of Rulemaking filed with the Board of Environmental Quality in February 2005. This rulemaking also addresses an increase in fees associated with the permitting process as well as any other changes deemed necessary to assure consistency with state and federal law and the efficient operation of a system for permitting ore processing by cyanidation within the state of Idaho. In addition, this rulemaking will revise the rules as necessary for consistency with changes made during the rulemaking initiated in response to Senate Bill 1169 (Docket No. 58-0113-0501). This rulemaking also adds the standard rule sections necessary for conformance with IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator".

The Idaho Mining Association, Independent Miners Association, Idaho Department of Lands, Idaho Conservation League, Idaho Rivers United, U.S. EPA, mining companies, associated grass roots environmental and multiple use organizations, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

**FEE SUMMARY:** The existing rule requires applicants to submit a \$100 fee at the time the permit application is submitted to DEQ (Subsection 100.03.j.). This proposed rule includes a new fee schedule which increases the permit application fee (Subsection 100.05.). Section 39-118A(2)(c), Idaho Code, authorizes the Director of DEQ to require a reasonable fee for processing permit applications.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D (3) and (4), Idaho Code, supporting modifications to these rules. Information relating to Section 39-107D(2) has also been provided. The requirements set forth in this proposed rule are based upon best available peer reviewed science and studies and analyses conducted by the regulated mining community in Idaho and Nevada, the State of Nevada and other states, the U.S. Environmental Protection Agency (EPA), and Idaho Conservation League. These studies indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed.

*Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.*

Standards and performance criteria for construction, operation, maintenance, monitoring and permanent closure of cyanidation facilities were proposed as modifications to the Rules for Ore Processing by Cyanidation by

members of the Idaho Mining Association and the Atlanta Gold Corporation. These standards and criteria are derivations of industry accepted standards and performance criteria used in the State of Nevada. These standards and performance criteria have been adopted by the State of Nevada as regulatory requirements. As such, these proven standards and criteria have been reviewed and accepted by Nevada's and Idaho's regulated community and the State of Nevada.

***Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.***

Data was not collected or analyzed as part of this rulemaking process.

***Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.***

Release of contaminants from cyanidation facilities may adversely impact beneficial uses in both surface and ground waters. Due to the remote location of most cyanidation facilities, populations and receptors of contaminants generated by these facilities are small domestic and community drinking water systems, recreationists, and wildlife. However, questions have been raised as to whether or not the drinking water supplies for Treasure Valley residents will be adversely affected by contaminants released from the Atlanta Gold Mine, which will be located above tributaries to the Middle Fork of the Boise River. Contaminants of concern with the potential of release from cyanidation facilities include, but are not limited to, cyanide, nitrates, chlorine, heavy metals, and sediment.

***Sections 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.***

Contaminants of concern listed above have been released from numerous cyanidation facilities, including the Stibnite Mine, Princess Blue Ribbon Mine, Champagne Mine, Black Pine Mine, and Grouse Creek Mine, each of which were regulated by the Rules for Ore Processing by Cyanidation (Rules) as the Rules existed prior to July 13, 2005. The proposed Rules would require significant improvements to design and construction of primary and secondary containment for process waters and pollutants. These changes are anticipated to eliminate future releases similar to those which occurred at those listed mines. Expected risks of exposure to contaminants released from cyanidation facilities which are constructed, operated, maintained and permanently closed according to the proposed Rules are as follows:

The expected risk for release of cyanide in concentrations, which might be expected to adversely affect surface or ground water is low. Risks of cyanide contamination affecting down-gradient beneficial users of drinking water (either directly or indirectly) are low to non-existent. Risks to other surface water beneficial uses, including cold water biota (and Bull Trout), salmonid spawning and rearing, and primary and secondary contact recreation, are also low. These conclusions are based on the evaluation of annual Environmental Quality Reports, monitoring data and trend analyses of physical chemical and biological parameters submitted to DEQ by current and past operators. The information and conclusions may be found in DEQ's mining files for the Bear Track Mine, Grouse Creek Mine, Champagne Mine, De Lamar Mine, Hecla Yellow Pine Mine, and Stibnite Mine.

Releases of nitrates, chlorine and other neutralizing agents from spent ore disposal portions of the cyanidation facilities are expected, but should not occur in concentrations which might be expected to adversely affect surface or ground water. Risks of nitrate contamination affecting down-gradient beneficial users of drinking water (either directly or indirectly), are low to non-existent. However, the relative effects of additional nitrates on nutrient impaired Clean Water Act Section 303(d) listed streams, such as the lower Boise River, Brownlee, Ox Bow and Hells Canyon reservoirs is unknown. Risks to other surface water beneficial uses, including cold water biota (and Bull Trout), salmonid spawning and rearing, and primary and secondary contact recreation, are low.

Historically, spent ore disposal areas have been the source of heavy metals and sediment releases which



adversely affected cold water biota, and salmonid spawning and rearing in surface waters. However, proposed permanent closure criteria, which include source control measures such as caps and covers for waste repositories, will significantly reduce or eliminate releases from these facilities. The information and conclusions may also be found in DEQ's mining files for the Bear Track Mine, Grouse Creek Mine, Champagne Mine, De Lamar Mine, Hecla Yellow Pine Mine, and Stibnite Mine.

*Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.*

Studies of the effects of contaminant delivery from cyanidation facilities have been conducted by operators, state and federal agencies, and Native American tribes. However, conclusions regarding the short and long term effects of contaminants released from cyanidation facilities on cold water biota and salmonid spawning and rearing, particularly for anadromous fishes and Bull Trout, are inconclusive.

Toxicology studies indicate that if the contaminants of concern listed above are released in significant concentrations, there may be significant risk to beneficial uses such as drinking water, cold water biota, salmonid spawning and rearing. However, only routine monitoring and evaluation as prescribed by the current and proposed Rules is recommended.

*Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.*

Annual environmental quality monitoring reports for active mines in Idaho, which utilize cyanidation, are available to support the risk evaluations discussed above.

**IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT:** No negative impact occurs from this rulemaking; provision is not applicable.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Volume 05-4, page 23, under Docket No. 58-0113-0501.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this rulemaking, contact John Lawson at [John.Lawson@deq.idaho.gov](mailto:John.Lawson@deq.idaho.gov), (208)373-0141.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[Paula.Wilson@deq.idaho.gov](mailto:Paula.Wilson@deq.idaho.gov)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0113-0502

**002. WRITTEN INTERPRETATIONS.**

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

~~003.~~ **ADMINISTRATIVE PROVISIONS.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

**004. INCORPORATION BY REFERENCE.**

These rules do not contain documents incorporated by reference. ( )

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

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. mountain time, Monday through Friday. ( )

~~006.~~ **CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". (3-15-02)

~~007.~~ **DEFINITIONS.**

**01. Beneficial Use.** Any of the various uses which may be made of the surface and/or ground water of the state including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. Beneficial uses for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (1-25-95)

**02. Best Management Practices (BMPs).** Practices, techniques or measures developed, or identified, by the designated agency ~~and~~ or identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (~~7-13-05~~) ( )

**03. Cyanidation.** The method of extracting target precious metals from ores by treatment with a cyanide solution, which is the primary leaching agent for extraction. (7-13-05)T

**04. Cyanidation Facility.** That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings and process water. (7-13-05)T

**05. Department.** The Idaho Department of Environmental Quality. (1-1-88)

**06. Director.** The Director of the Department of Environmental Quality or his designee. (12-31-91)

**07. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (7-13-05)T

~~**08. Free Cyanide.** The sum of cyanide present as undissociated molecular hydrogen cyanide (HCN) and the cyanide ion (CN<sup>-</sup>), expressed as cyanide (CN<sup>-</sup>). (1-1-88)~~

~~**098. Groundwater.** Any water of the state which occurs beneath the surface of the earth in a saturated~~

geological formation of rock or soil. (7-13-05)T

~~109.~~ **Impoundment.** For the purpose of these rules an impoundment means a structure such as a pond, reservoir, tank, or vat that collects and confines liquids or slurries. (7-1-97)

~~110.~~ **Land Application.** A process or activity involving application of process water, ~~process-contaminated water,~~ wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (~~1-1-88~~)(\_\_\_\_)

~~121.~~ **Liner.** A continuous layer of natural or man-made materials beneath and, if applicable, on the sides of a surface impoundment or leach pad which restricts the downward and lateral ~~escape~~ movement of liquids. (~~1-1-88~~)(\_\_\_\_)

~~132.~~ **Material Modification or Material Expansion.** (7-13-05)T

a. The addition of a new beneficiation process ~~which includes, but is not limited to, heap leaching and process components for milling,~~ or a significant change in the capacity of an existing beneficiation process, which was not identified in the original application and that significantly increases the potential to degrade the waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or (~~7-13-05~~)T(\_\_\_\_)

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or (7-13-05)T

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (7-13-05)T

d. ~~Reclamation or closure related activities at a facility~~ For a cyanidation facility with an existing ~~cyanidation~~ permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities shall not be considered to be material modifications or material expansions of the cyanidation facility. (~~7-13-05~~)T(\_\_\_\_)

~~143.~~ **Material Stabilization.** Managing or treating spent ore, tailings or other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting ~~contaminants~~ pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. (~~7-13-05~~)T(\_\_\_\_)

~~14.~~ **National Pollution Discharge Elimination System (NPDES) Permit.** A permit issued by the U.S. Environmental Protection Agency for the purpose of regulating discharges into surface waters. (\_\_\_\_)

~~15.~~ **Neutralization.** Treatment of process waters such that discharge or final disposal of those waters does not, or shall not, violate any applicable standards and criteria. (7-13-05)T

~~16.~~ **Permanent Closure.** Those activities which result in neutralization, material stabilization and decontamination of cyanidation facilities and/or ~~their~~ the facilities' final reclamation. (~~7-13-05~~)T(\_\_\_\_)

~~17.~~ **Permanent Closure Plan.** A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of Section 39-118A, Idaho Code, and Chapter 15, Title 47, Idaho Code, in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site-specific conditions. (7-13-05)T

~~18.~~ **Permit.** When used without qualification, any written authorization by the Director, issued pursuant to the application, public participation and appeal procedures in these rules, governing location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (7-13-05)T

- 19. Permittee.** The person in whose name a permit is issued and who is to be the principal party responsible for compliance with these rules and the conditions of a permit. (7-1-97)
- 20. Person.** An individual, corporation, partnership, association, state, municipality, commission, federal agency, special district or interstate body. (1-1-88)
- 21. Pilot Facility.** (7-1-97)
- a.** A ~~testing~~ cyanidation facility that is constructed primarily to obtain data on the effectiveness of the ~~benefaction~~ beneficiation process to determine: (7-13-05)F(\_\_\_\_)
- i.** The feasibility of metals recovery from an ore; or (7-1-97)
- ii.** The optimum operating conditions for a predetermined process to extract values from an ore. (7-1-97)
- b.** A pilot or ~~testing~~ facility operates for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (7-1-97)(\_\_\_\_)
- 22. Pollutant.** Chemicals, chemical waste, process water, ~~process-contaminated water~~, biological materials, radioactive materials, or other materials which, when discharged, cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state. (1-1-88)(\_\_\_\_)
- 23. Post-Closure.** The period of time after completion of permanent closure when the ~~operator~~ permittee is monitoring the effectiveness of the closure activities. Post-closure shall last a minimum of twelve (12) months but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and requirements of Chapter 15, Title 47, Idaho Code, and these rules. (7-13-05)F(\_\_\_\_)
- 24. Process Waters.** Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (7-13-05)T
- 25. Seasonal Closure.** Annual cessation of operations that is due to weather. (1-1-88)
- 26. Small Cyanidation Processing Facility.** A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or applicant may concurrently hold more than one (1) small cyanidation processing facility permit, if the facilities are located within ten (10) miles of each other. (7-13-05)F(\_\_\_\_)
- 27. Special Resource Water.** Those waters of the state which are recognized as needing intensive protection: (1-1-88)
- a.** To preserve outstanding or unique characteristics; or (1-1-88)
- b.** To maintain current beneficial use (refer to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," for a complete description; special resource waters for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"). (1-25-95)
- 28. State.** The state of Idaho. (12-31-91)
- 29. Temporary Closure.** Any cessation of operations exceeding thirty (30) days, other than seasonal or permanent. (1-1-88)

**30. Treatment.** Any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (1-1-88)

**31. Water Balance.** An inventory and accounting process, capable of being reconciled, that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (~~7-13-05~~)T( )

**32. Water Management Plan.** A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state unless permitted or otherwise approved by the Department. (7-13-05)T

**33. Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (7-13-05)T

**34. Weak Acid Dissociable (WAD) Cyanide.** The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036 of American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the Department. (7-13-05)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. CONCEPTUAL DESIGN APPROVAL.**

**01. Information Required for Conceptual Design Approval.** Submittal of a Conceptual Design Report is not mandatory. The Director may, if requested, give initial approval of the basic operation, design concepts, and environmental safeguards proposed based on the information included in a Conceptual Design Report. Approval of the Conceptual Design Report shall not authorize the construction, modification or operation of the cyanidation facility. It is recommended that ~~the~~ Conceptual Design Report ~~shall consist of~~ address the following: (~~7-13-05~~)T

~~a- Requirements~~ contents for a permit application as listed in Subsections ~~100.03.a. through 100.03.f.~~ (~~12-31-91~~)T( )

~~b- A general description of the operating plan, cyanidation facility and conceptual designs.~~ (~~7-13-05~~)T

**02. Notice of Conceptual Design Approval or Disapproval.** The Director shall notify the applicant in writing of the decision for conceptual approval or disapproval within a period of thirty (30) days from receiving all information as required under Subsection 050.01. The time required to review and approve, if appropriate, a conceptual design shall be considered separate from and shall not be included as part of the one hundred eighty (180) day time period for processing the formal application and issuance of a Director's determination pursuant to these rules. (7-13-05)T

**03. Preapplication Conference.** Prospective applicants are encouraged to meet with agents of the Department ~~well at least one (1) year in advance of the application submittal to discuss~~ siting and operating plans, anticipated application requirements, application procedures, and to arrange for environmental baseline data requirements; waste characterization requirements; siting requirements for surface and ground water monitoring stations, mills, tailing impoundments, waste disposal sites and land application sites; monitoring well construction requirements; operation and maintenance plans; emergency and spill response plans; quality control/quality

assurance plans for water quality sampling and analyses; required contents for permit applications; application procedures and schedules; public review and comment periods; public meetings; and agency cyanidation facility visits. The preapplication conference may trigger a period of collaborative effort between the applicant, the Idaho Department of Environmental Quality, and the Idaho Department of Lands in development of checklists to be used by the agencies in reviewing an application for completeness, accuracy and protectiveness. (7-13-05)F( )

**051. -- 099. (RESERVED).**

**100. PERMIT AND PERMIT APPLICATION.**

**01. Permit Required.** No person shall construct a new cyanidation facility prior to obtaining a permit from the Director. No person shall materially expand or materially modify a cyanidation facility prior to obtaining a modified permit for such expansion or modification pursuant to Section 750. (7-13-05)F( )

**02. Permit Application.** The owner or proposed operator of a *proposed* cyanidation facility or the owner's or operator's authorized representative shall: (7-13-05)F( )

**a.** Make application to the Director in writing and in a manner or form prescribed herein; and (7-13-05)T

**b.** Provide five (5) paper copies of the application to the Director, unless otherwise agreed to by the Department and the applicant. (7-13-05)T

**03. Contents of Application.** A permit application ~~will~~ and its contents shall be used to determine if ~~the location, construction, operation, and closure of a~~ an applicant can locate, construct, operate, maintain, close and monitor the proposed cyanidation facility will be in conformance with these and other applicable rules including, but not limited to, Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"; ~~and Idaho Department of Environmental Quality Rules,~~ IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; IDAPA 58.01.06, "Solid Waste Management Rules"; and IDAPA 58.01.11, "Ground Water Quality Rule". Information required shall include the following, in sufficient detail to allow the Director to make necessary application review decisions concerning design concepts, and protection of human health and the environment ~~protection and public health:~~ (7-13-05)F( )

**a.** Name, location, and mailing address of the cyanidation facility. (7-13-05)T

**b.** Name, mailing address, and phone number of the applicant, and a registered agent. (1-1-88)

**c.** Land ownership status of the cyanidation facility (federal, state, private or public). (7-13-05)T

**d.** Name, mailing address, and phone number of the applicant's construction and operations manager. ( )

**e.** The legal structure (corporation, partnership, etc.) and residence of the applicant. (1-1-88)

**f.** The legal description, to the quarter-quarter section, of the location of the proposed cyanidation facility. ( )

**g.** Evidence the applicant is authorized by the Secretary of State to conduct business in the State of Idaho. ( )

**h.** A general description of the operational plans for the cyanidation facility from construction through permanent closure. This description shall include any proposed phases for construction, operations, and permanent closure. ( )

**i.** The design maximum daily throughput of ore through the cyanidation facility and the total projected volume of material to be processed during the life of the operation. ( )

i. Cyanidation facility layouts including water management systems designed to segregate storm water from process water. ( )

ek. ~~A surface and subsurface description, except as provided in Subsection 100.04 of these rules, of the local hydrogeologic regime. A geotechnical evaluation of all process water and process chemical containment systems within the proposed cyanidation facility.~~ (7-13-05)F( )

fl. A preconstruction topographic site map ~~and/~~ or aerial photos, ~~except as provided in Subsection 100.04 of these rules,~~ extending at least one (1) mile beyond the outer limits of the cyanidation facility, identifying and showing the location and extent of the following features: (7-13-05)F( )

i. All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches ~~within one (1) mile of~~ that may be affected by the cyanidation facility; (7-13-05)F( )

ii. All process water supply source(s); (1-1-88)

iii. All public and private drinking water supply source(s) within at least one (1) mile of the cyanidation facility; (7-13-05)T

iv. ~~All USGS-~~Identified floodplain areas (~~as~~ shown on USGS sectional Quadrangle maps); (1-1-88)( )

v. All service roads and public roads; (1-1-88)

vi. All buildings and structures within a half (1/2) mile of the cyanidation facility; (7-13-05)T

vii. All special resource waters within one (1) mile of the cyanidation facility; (7-13-05)T

viii. All Clean Water Act Section 303(d) listed streams, and their listed impairments, within ten (10) miles of the site boundary that may be affected by the cyanidation facility. ( )

m. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction. ( )

n. A description of the proposed land application site. The description shall include a potentiometric map, surface and subsurface soil characteristics, geology, hydrogeology and ground water quality. The description of these characteristics must be sufficient to determine anticipated impacts to the affected soils, associated vadose zone as well as anticipated changes in geochemistry that may affect surface and ground water quality. ( )

o. Siting diagram for land application sites, monitoring wells, lysimeters, surface or ground water discharge sites, or surface water monitoring locations. ( )

p. A description of measures to protect wildlife that may be affected by the facility. ( )

q. Proposed post-construction topographic maps. ( )

~~g. Topographic maps and/or aerial photos and an engineering report with drawings, except as provided in Subsection 100.04 of these rules, showing locations and design of those portions of the cyanidation facility intended to contain, treat, or dispose process water or process-contaminated water containing cyanide. This information shall be of sufficient detail to allow the Director to make necessary factual determinations concerning design competence and environmental protection and include: a drawing which shows surface gradients and flow of process solutions, predicted flow of runoff and run-on; design criteria and process schematic; leach pad and pond cross sections; typical details of liner systems for pads, ponds and process-related impoundments; treatment process schematics; and leak detection/monitoring system details. The cyanidation facility design shall be certified by a registered professional engineer. Any material modifications to the engineering drawings shall require prior approval~~

~~by the Department and submittal of as built drawings by the applicant which are certified by a registered professional engineer. These rules recognize the need for practicable design flexibility in order to meet site specific operating and environmental protection criteria. Construction and material specifications that meet design criteria shall be submitted with the permit application. These shall address major construction requirements related to materials of construction identified in the engineering report, inspection and testing requirements (including liners), and necessary manufacturer certifications. Construction specifications shall include a quality assurance procedure for liner installations and a procedure for leak testing of impoundments.~~ (7-13-05)F

**i. Engineering Plans and Specifications.** Engineering plans and specifications for all portions of the cyanidation facility intended to contain, treat, convey or dispose of all process water and pollutants must be submitted to the Department for review and approval. Prior to construction, all cyanidation facility engineering plans and specifications must be stamped by a professional engineer registered in the state of Idaho. These plans and specifications shall include: ( )

i. The water balance, ore flow and processing calculations demonstrating the logic behind sizing of facilities. ( )

ii. The general ore processing overview analyses of chemical compatibility of containment materials with process chemicals and wastes, including a chemical mass balance at inputs and outputs from the cyanidation facility. ( )

iii. Geotechnical data and analyses demonstrating the logic for plans and specifications of foundation materials and placement. ( )

iv. Requirements for site preparation. ( )

v. Pumping and dewatering requirements. ( )

vi. Procedures for materials selection and placement for backfilling foundation areas. ( )

vii. Criteria for ensuring slope stabilization of embankments for pads, ponds and tailings impoundment. ( )

viii. Procedures to classify and modify, if necessary, excavated fill, bedding and cover materials for buildings, pads, ponds, and tailings impoundments. ( )

ix. Plumbing schematics and component specifications. ( )

x. Manufacturers' specifications and warranties for all materials that will or may come in contact with process waters. ( )

xi. Plan views and cross-section drawings of leach pad, permanent heaps, vats, process water storage ponds, tailing ponds and spent ore disposal areas. ( )

xii. Leak detection and collection system plans and specifications including, but not limited to, schematics and narratives describing liner and geotextile material specifications, sumping capacity and layout, location of monitoring port(s), monitoring port components, construction operation and maintenance procedures for monitoring ports and pumping systems, including backup system, triggers for primary and secondary containment repairs, replacement or other contingency mitigation, frequency of monitoring, and monitoring parameters. ( )

xiii. Provisions to protect primary and secondary containment systems from heavy equipment, fires, earthquakes and other natural phenomena. ( )

xiv. Quality control and quality assurance procedures. ( )

xv. The identity and qualifications of person(s) directly responsible for supervising construction and providing project quality control and quality assurance. ( )



~~hs.~~ ~~An operating plan, except as provided in Subsection 100.04 of these rules, that~~ Operation and maintenance plans that includes: (7-1-97)(\_\_\_\_)

~~i.~~ ~~The general ore processing overview;~~ (1-1-88)

~~ii.~~ ~~The process containment, treatment and disposal methods to be used;~~ Maintenance plans, including routine service procedures for primary and secondary containment systems, process chemical storage, and disposal of contaminated water or soils, including petroleum-contaminated soils. (1-1-88)(\_\_\_\_)

~~iii.~~ ~~A water management plan that describes the~~ provides for handling and containment of process water balance and including the methods to manage and/or treat all process water and pollutants, process-contaminated water, and run-off or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The plan shall include the basis for impoundment volumes and all estimations of the need for and operation of a land application site, injection wells, infiltration galleries or leach fields, or the need for an NPDES permit. Nothing in these rules shall be construed to deny the owner or operator of a cyanidation facility the opportunity to apply for and receive a federal discharge permit or an Idaho Department of Water Resources injection well permit as part of the water management plan. In addition the plan may include a request for approval of a land application proposal or a proposal for economic reuse. The plan shall be updated on a regular basis to reflect the reconciliation of the water balance changes in the project through construction, operation, maintenance, and permanent closure, including modifications to the cyanidation facility. (7-13-05)F(\_\_\_\_)

~~iv.~~ ~~A proposed water quality monitoring strategy plan that describes the existing water quality (baseline), proposed monitoring of surface and ground waters that may receive drainage or seepage from the operation (operational), and proposed monitoring for detection and location of leaks or discharges from the operation~~ meets the requirements of Subsection 200.08. (1-1-88)(\_\_\_\_)

~~v.~~ ~~A discharge response strategy~~ An emergency and spill response plan that describes procedures and methods to be implemented for the abatement, and clean up of any pollutant that may ~~escape proper containment at the cyanidation facility~~ be discharged from the cyanidation facility during use, handling or disposal of processing chemicals, petrochemicals and/or fuels, and any other deleterious materials. (7-13-05)F(\_\_\_\_)

~~vi.~~ ~~A seasonal/temporary closure strategy plan, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of process chemicals.~~ (7-13-05)F(\_\_\_\_)

~~vii.~~ ~~Permanent Closure Plan. The permanent closure plan may be the same as the plan submitted to the Idaho Department of Lands pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code. The permanent closure plan shall:~~ (7-13-05)T

~~i.~~ ~~Provide a definition of~~ Identify the current ownership of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility. (7-13-05)F(\_\_\_\_)

~~ii.~~ ~~Include a time line showing the schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator permittee shall be responsible for post-closure activities.~~ (7-13-05)F(\_\_\_\_)

~~iii.~~ ~~Provide the objectives, methods and procedures, that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure.~~ (7-13-05)T

~~iv.~~ ~~Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period.~~ (7-13-05)T

~~v.~~ ~~Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, a description of how the BMPs support the water management plan, and an~~

explanation of the water conveyance systems that are planned for the cyanidation facility. (7-13-05)T

vi. Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing ~~contaminants~~ pollutants that are likely to be mobilized and discharged to waters of the state. Prior to issuance of a final permit, ~~E~~engineering ~~designs~~ plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. (~~7-13-05~~)T( )

vii. Include monitoring plans for surface and ground water during closure and post-closure periods adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and requirements of these rules. (7-13-05)T

viii. Provide an assessment of the potential impacts to soils and vegetation for all areas to be used for land application and provide a mitigation plan as appropriate. (7-13-05)T

ix. Provide information on how the ~~operator~~ permittee will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; the Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure. (~~7-13-05~~)T( )

x. ~~All components of the permanent closure plan shall be prepared in~~ Provide sufficient detail to allow the ~~operator~~ permittee to prepare an estimate of the reasonable cost for the state of Idaho to hire a third party to implement the closure plan. (~~7-13-05~~)T( )

~~ju.~~ The application shall be accompanied by a fee of one hundred dollars (\$100) pursuant to Subsection 100.05. (~~7-1-88~~)T( )

**04. Application for a Small Cyanidation Processing Facility and Pilot Facility.** The owner or proposed operator of a ~~proposed~~ small cyanidation processing facility or the owner's or operator's authorized representative shall make application to the Director in writing of the intent to operate a small cyanidation processing facility or a pilot facility. The application shall include an explanation as to why the proposed small cyanidation processing facility qualifies as a small cyanidation processing facility or a pilot facility. The application must ~~further meet the requirements of Subsection 100.03 in the following manner:~~ provide the information, plans and specifications identified in Subsection 100.03. (~~7-13-05~~)T( )

~~a. The application must contain plans and specifications certified by a registered professional engineer in accordance with Section 39-118A, Idaho Code; and~~ (7-1-97)

~~b. The application must contain the information and fee required by Subsections 100.03.a., 100.03.b., 100.03.c., 100.03.d., 100.03.i., and 100.03.j.; and~~ (7-1-97)

~~e. The Director may provide an exemption to any other requirement of Subsection 100.03 not set forth in Subsections 100.04.a. and 100.04.b., if by so doing, the Director has sufficient information to determine potential impacts to the environment, public health or current or future beneficial uses of the waters of the state.~~ (7-1-97)

**05. Permit Application Fees.** ( )

**a.** The application shall be accompanied by a fee as described below: ( )

**i.** Five thousand dollars (\$5,000) for a pilot facility: ( )

**ii.** Ten thousand dollars (\$10,000) for a small cyanidation processing facility: ( )

**iii.** Twenty thousand dollars (\$20,000) for a cyanidation facility that is neither a pilot facility nor a small cyanidation processing facility; or ( )

iv. In lieu of paying a fee at the time the application is submitted, an applicant may enter into an agreement with the Department for actual costs incurred to process an application and issue a final permit. The applicant shall not commence operations at the cyanidation facility until the terms of the agreement have been met, including that the Department has been reimbursed for all actual costs incurred for the permitting process. ( )

b. Completeness of an application is contingent upon one (1) of the following: ( )

i. Submission of the applicable fees as described in Subsections 100.05.a.i. through 100.05.a.iii.; or ( )

ii. The applicant enters into an agreement with the Department as described in Subsection 100.05.a.iv. ( )

**06. Exemptions to Fees.** Requests made by the Department to the permittee for any permit modifications shall not be subject to application fees set forth in Subsection 100.05. Requests by the permittee for minor modifications to a permit shall not be subject to application fees set forth in Subsection 100.05. ( )

101. -- 199. (RESERVED).

**200. REQUIREMENTS FOR WATER QUALITY PROTECTION.**

The following ~~minimum~~ design and performance standards are intended as ~~a baseline~~ the minimum criteria for protection of public health and ~~for~~ the waters of the state. These standards shall apply to all facilities unless the ~~Director approves, based on an applicant's site specific information~~ Department determines that ~~compliance with a other site-specific standard is not required~~ criteria are appropriate to protect water quality and the public health. (7-1-88)( )

**01. Cyanidation Facilities Siting and Preparation.** All cyanidation facilities including, but not limited to, the process building, laboratories, process chemical storage and containment facilities, plumbing fixtures that support process water, untreated or treated process water ponds, tailings impoundments, ore stock piles, and spent ore disposal areas must be appropriately sited and prepared for construction. Siting criteria must ensure that, at a minimum, the facilities are structurally sound and that primary and secondary containment systems can be adequately protected against factors such as wild fires, floods, land slides, surface and ground water systems, equipment operation, subsidence of underground workings, public access and public activities. All sites must be properly prepared prior to construction of foundations and facilities. Vegetation, roots, brush, large woody debris and other deleterious materials, top soil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction and long term stability, must be removed from the footprint of the cyanidation facility unless approved by the Department. ( )

**02. Containment Design Process Water Storage Sizing Criteria.** All aspects of the cyanidation facility that entrain, utilize, treat, discharge, pump, or otherwise contain process water and pollutants shall be included in the water balance. The water balance shall include process water ponds, treated process water ponds, tailing impoundments, and water conveyance systems. The engineered containment criteria for each pond shall be incorporated into the water balance and must be designed to maintain a minimum two (2) foot freeboard at all times. At a minimum, a cyanidation facility shall be designed to contain the maximum expected normal operating water balance and the ~~one hundred (100) year, twenty-four (24) hour storm event~~ volume of run-on/run-off water associated with a climatic event that has a frequency of occurrence of one (1) year in one hundred (100) years or one percent (1%). Snowmelt events shall be considered in determining the containment capacity. Contingency plans for managing excesses of process water ~~or process-contaminated water~~ shall be described in the water management strategy. Each impoundment design must include a spillway, unless otherwise approved by the Department. (7-13-05)F( )

**023. Minimum Plans and Specifications for Impoundments Design, Leach Pads and Other Facilities Designed to Contain Process Water.** Impoundments, other than for emergency runoff, containing or designed to contain process water shall be designed for efficient leak detection and provide for adequate leak recovery. This requirement does not apply to tailing structures more than thirty (30) feet in height which are regulated by the Idaho Department of Water Resources under Chapter 17, Title 42, Idaho Code. Engineering plans and specifications, which are signed and stamped by a professional engineer registered in the state of Idaho, must be

approved and included in the final permit issued by the Department prior to construction of cyanidation facilities that are designed to contain process waters. The plans and specifications must provide for: ~~(1-1-88)~~( )

**a.** A prepared subbase of compacted soil, which shall be a minimum of twelve (12) inches thick. The soil must be compacted to ninety-five percent (95%) of Standard Proctor Test ASTM 698 or ninety-five percent (95%) of Modified Proctor Test ASTM 1557. The compacted soil layers must be placed in a minimum of two (2) lifts; ( )

**b.** A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials; ( )

**c.** Primary containment synthetic liners, which shall have a minimum thickness of eighty (80) millimeters (2.0 mm) consisting of high-density polyethylene (HDPE) material and a maximum coefficient of permeability of  $10^{-11}$  cm/sec, or comparable liners approved by the Department; ( )

**d.** A final smoothed and compacted soil layer, which shall not contain particles in excess of point seven five (0.75) inches (nineteen (19) mm) in diameter and have a maximum coefficient of permeability of  $10^{-6}$  cm/sec, or comparable liners approved by the Department; ( )

**e.** Primary and secondary liner systems, which shall be constructed according to manufacturers' standards, or Department-approved design standards, and which must protect against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities; ( )

**f.** Compacted clay liners (CCLs), which shall be placed within two percent (2%) of optimum moisture content for the CCL to achieve specified compaction and permeability criteria; ( )

**g.** An appropriate interface friction strength plus a factor of safety when either a geosynthetic clay liner (GCL) or CCL is used with a geomembrane liner on a slope; ( )

**h.** Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining systems of heap leach pads and ponds; ( )

**i.** Redundant systems, which shall be available if there are failures in primary power and/or pumping systems; ( )

**j.** Procedures for loading ore onto the leach pads which will minimize tensile stresses in the primary and secondary containment liners that may result in failure of the liners; and ( )

**k.** Leak detection and collection systems, which shall be designed and installed for all facilities, or portions thereof, where process waters may place an average of twelve (12) inches or greater of hydraulic head pressure on primary containment. The engineering plans and specifications shall: ( )

**i.** Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all process water that passes through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be reasonably expected to result in discharges through the secondary containment synthetic liner; ( )

**ii.** Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of process waters from the layer placed between primary and secondary containment synthetic liners. The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; ( )

**iii.** Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; ( )

**iv.** Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems; and ( )

v. Provide secondary containment synthetic liners, which shall have a minimum thickness of eighty (80) milli-inches (two (2.0) mm) consisting of HDPE and a maximum coefficient of permeability of  $10^{-11}$  cm/sec, or comparable liners approved by the Department. ( )

~~03. **Liner Criteria.** A hydraulic liner is required for leach pads and impoundments and shall: (1-1-88)~~

~~a. Be designed for a maximum coefficient of permeability of  $10^{-7}$  cm/sec; a clay liner shall also have a minimum thickness of twelve (12) inches; (1-1-88)~~

~~b. Have a competent foundation designed to withstand the projected static and dynamic loading and projected differential settlement; (1-1-88)~~

~~c. Be structurally competent at all times until permanent closure; (1-1-88)~~

~~d. Be chemically compatible with materials contacting the liner; (1-1-88)~~

~~e. Be designed to prevent damage during loading and unloading; (1-1-88)~~

~~f. Where appropriate, ensure minimal hydraulic head above the liner. (1-1-88)~~

**04. Process Buildings, Process Chemical Storage Containment Areas and General Facility Criteria.** Storage, handling and use of all process chemicals, process wastes, process water and pollutants must be conducted within a clean, safe and secure work space to prevent unauthorized discharges to soils, ground water or surface water. The plans and specifications must contain sufficient detail, including pump capacity and plumbing for evacuation of collection sumps, triggering systems for sump evacuation, and monitoring and reporting requirements. Plans and specifications must be submitted with the application for the Department's review and approval. Prior to construction, plans and specifications for the process buildings and auxiliary facilities, including process chemical storage and containment facilities and laboratories, must be signed and stamped by a professional engineer registered in the state of Idaho. Where appropriate, these plans and specifications must provide for: ( )

a. Structural integrity of the foundation, walls and roof for process and process chemical storage buildings. ( )

b. Restriction of public access. ( )

c. Protection of wildlife. ( )

d. Internal sumps and spill cleanup plans. ( )

e. Grouted and sealed concrete stemmed walls and floors in the process and process chemical storage and containment facilities. ( )

f. Vapor barriers and frost protection. ( )

g. Segregation of process chemicals according to compatibility. ( )

h. Communication systems. ( )

i. Fire suppression systems, internal and external. ( )

j. Quality assurance and quality control for construction activities and construction materials. ( )

**05. Cap and Cover Criteria.** Caps and covers used as source control measures for facilities must be designed and constructed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Caps and covers

designed for permanent closure must demonstrate permanence applicable to the permittee's designed and approved permanent closure plan. Prior to issuance of a final permit, engineering plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. ( )

**06. Plumbing and Conveyance Criteria.** Engineering plans and specifications must be submitted to the Department for review and approval. Plumbing and conveyance systems shall be structurally sound and chemically compatible with the materials being conveyed; shall provide adequate primary and secondary containment; and shall be protected against heat, cold, mechanical failures, impacts, fires, and other factors which may cause breakage and result in unauthorized discharges. Prior to construction, engineering plans and specifications of all conveyances of materials containing process water must be signed and stamped by a professional engineer registered in the state of Idaho. ( )

**07. Operation and Maintenance Plans.** Operation and maintenance plans must be submitted to the Department for review and approval. Operation and maintenance plans must include, but are not limited to: ( )

**a.** An overall plan that includes techniques for evaluating the integrity and performance of all primary and secondary containment systems. ( )

**b.** Schedule for inspections of all primary and secondary containment systems. ( )

**c.** Schedule for inspections on piping and conveyance systems that carry process water. ( )

**d.** Response plans that detail specific actions that will result in mitigation of compromised or damaged containment systems. ( )

**048. Water Quality Monitoring and Reporting.** A ground water and/or surface The water quality monitoring program shall be required for a cyanidation facility. The monitoring program shall be dependent on location, design and operation of the cyanidation facility, and shall be capable of indicating the cyanidation facility's effect on the surface and/or ground water most likely to be affected by the operation. The monitoring program shall be designed to give the earliest possible detection of an unauthorized discharge. plan submitted with the application shall be reviewed and, if appropriate, approved by the Department. The approved water quality monitoring plan shall:  
(7-13-05)F( )

**a.** Provide for physical, chemical and biological monitoring, including surface water flow measurements, in potentially affected surface and ground water, as appropriate. ( )

**b.** Provide for sampling locations and frequency. ( )

**c.** Provide an assessment of the existing surface and ground water conditions prior to construction of the proposed cyanidation facility. ( )

**d.** Be site specific and dependent on location, design and operation of the cyanidation facilities included in the overall operating plan. ( )

**e.** Specify compliance points and associated water quality compliance criteria. ( )

**f.** Specify monitoring points, which will provide for early detection of discharges of pollutants. ( )

**g.** Provide analytical methods and method detection limits for chemical analysis used in the determination of water quality. ( )

**h.** Provide a quality assurance quality control plan for data collection and analysis. ( )

**i.** Provide for appropriate and timely analytical data analyses including evaluations of water quality and quantity trends. ( )

j. Provide an annual environmental monitoring and data analysis report of water quality and quantity trends. ( )

k. Provide for the reporting and re-sampling of monitoring locations where detectable and statistically significant changes in water quality are found. The permittee shall propose a statistical method to determine the significance of the changes in water quality. ( )

l. Provide for anticipated changes or modifications to monitoring plans, which may be the result of a phased approach to cyanidation facility construction, operations and permanent closure. ( )

~~05. Disposal or Abandonment of Leached Ore. Disposal or abandonment of the leached ore shall ensure that: (1-1-88)~~

~~a. The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process contaminated water draining from the leached ore is reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination, or the pH of process contaminated water draining from the leached ore is stabilized to a pH between six point five (6.5) and nine (9.0), prior to disposal or abandonment. Mine tailing impoundments that require recycling of process water to prevent a point source discharge may be exempt from this requirement by the director; (1-1-88)~~

~~b. Structural stability of the spent ore pile is maintained; (1-1-88)~~

~~e. Monitoring of the surface and ground water is conducted to verify that beneficial uses are maintained. (1-1-88)~~

~~06. Seasonal Closure. Prior to seasonal closure, the freeboard in process water impoundments shall be increased to a level sufficiently below normal operating volume to ensure containment design criteria. The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process or process contaminated water shall be reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination; or prior to disposal, process water shall be treated to a pH between six point five (6.5) and nine (9.0). (1-1-88)~~

~~07. Storage Requirements. Cyanide compounds in storage shall be physically separated and protected from other substances, such as acids and strong oxidants, that are not chemically compatible. (1-1-88)~~

~~08. Employee Education Program. The permittee shall demonstrate that a program of new employee orientation and continuing employee education is being implemented and maintained. The program shall be designed to ensure awareness and implementation of the discharge response strategy. (1-1-88)~~

09. Monitoring Wells Siting and Construction Plans. The applicant is encouraged to submit the purpose, objectives, location and proposed construction of monitoring wells to the Department for review and comment during the initial stages of site characterization. ( )

a. Monitoring well siting and construction plans shall provide for a minimum of three (3) monitoring wells. One (1) shall be located up gradient and two (2) shall be located down gradient of primary components of the cyanidation facility to determine ground water flow direction. ( )

b. Siting and planning for additional wells or replacement wells may be required in the permit application and final permit. Specifically, additional wells may be required for: ( )

i. Large areas with multiple potential sources for pollutants; ( )

ii. Areas with complex geology, fractured bedrock; and ( )

iii. Areas with insufficient background hydrogeology. ( )

c. All monitoring well construction must also conform to the well construction rules listed in IDAPA

37.03.09. "Well Construction Standards Rules". ( )

**d.** Record diagrams along with a detailed geologic log shall be provided to the Department for each monitoring well. ( )

**10. Land Application.** Prior to issuance of a final permit, plans and specifications for the construction or modification of land application of process water disposal systems shall be submitted to and approved by the Department. All plans and specifications for the construction, operation and closure of land application or other waste treatment or disposal facilities or modification must be signed and stamped by a registered professional engineer licensed in the state of Idaho. Plans and specifications shall include: ( )

**a.** An operation and maintenance plan including: ( )

**i.** Water balance for the land application site. ( )

**ii.** Pretreatment requirements and procedures. ( )

**iii.** Operating season for land application. ( )

**iv.** Seasonal closeout procedures. ( )

**v.** Special soils or vegetative amendments. ( )

**vi.** Storm water run-on/run-off controls. ( )

**vii.** Best management practices for all areas impacted by the land application system. ( )

**viii.** A topographic map of the land application site and adjacent affected areas, of sufficient scale to facilitate site-specific analysis of soils, vegetation, surface water and ground water. ( )

**b.** Chemical, physical, and volumetric characteristics of the process water to be land applied. ( )

**c.** A complete description of the chemical and physical characteristics of the soils and applicable geology of the land application site. ( )

**d.** Methods of process water treatment, distribution and disposal. ( )

**e.** Hydraulic loading capacity of the soils. ( )

**f.** Constituent loading capacity of the site. ( )

**g.** Attenuation capacity of the vegetative covers and soils. ( )

**h.** Evapotranspiration capacity of the site. ( )

**i.** Testing and analytical procedures for water quality and soils samples prior to, during, and following the land application process. ( )

**j.** Trend analysis of the constituent loading in the affected soils, vegetation and water quality of the affected surface or ground water systems. ( )

**k.** Reporting requirements including both frequency and form. ( )

**l.** Standby power and pumps sufficient to maintain all treatment and distribution works. ( )

**11. Temporary or Seasonal Closure.** Temporary and seasonal closure plans for the entire cyanidation



facility must be submitted by an applicant to the Department for review and approval prior to issuance of a final permit. Temporary and seasonal closure plans may, subject to Department approval pursuant to Section 750, be modified to provide for changes in operating conditions of the facilities and must incorporate a water management plan for the period of inactivity as well as during shut down and reactivation. ( )

a. Prior to seasonal closure, process buildings, process chemical storage, process water ponds, tailing ponds, spent ore disposal areas and other ancillary facilities must be stabilized and/or conditioned to prevent any emergency or unauthorized discharges to surface or ground water. ( )

b. Subsequent to seasonal closure, process buildings, process chemical storage, process water ponds, tailings ponds, spent ore disposal areas and other ancillary facilities must be maintained to prevent any emergency or unauthorized discharges to surface or ground water. Cyanidation facilities shall be conditioned and maintained to provide: ( )

i. Material stabilization for all solids affected by process waters. ( )

ii. Optimum freeboard in all ponds, as dictated by the water management plan. ( )

iii. Fully functional power and pumping systems that are ready for use; both power and pumps shall have incorporated redundant systems to allow for failure of either power or a pumping system. A failed power supply or pump is not an acceptable reason for an unauthorized discharge. ( )

iv. Protection of all primary and secondary containment. ( )

v. Sufficient availability of qualified staff to restrict public access, fully implement the water quality monitoring plan, and initiate the emergency and spill response plan. ( )

12. Employee Education Program. Operators and staff of facilities must be properly oriented and trained to operate, maintain and protect primary and secondary containment systems; waste disposal and discharge systems; and to implement monitoring and emergency and spill response plans. An applicant must submit an employee orientation and continuing training plan to the Department for review prior to issuance of a final permit. The plan must provide the format and contents for training, the general qualifications of the person(s) responsible for training and testing, and the person(s) or positions which should receive such training. ( )

201. -- 299. (RESERVED).

### 300. APPLICATION PROCESSING PROCEDURE.

01. Substantially Incomplete Applications Processing Time Line for Director's Final Decision. An application which does not, on its face, include all the requirements of Subsection 100.03, except as provided in Subsection 100.04 of these rules, will be returned to the applicant with a written list of the missing items. A chart illustrating the application processing time line is located in Appendix A of these rules. (7-1-97)( )

02. Completeness Review. Within thirty (30) days of receipt of an application, the Department will issue a written notice to the applicant and the Idaho Department of Lands, indicating: ( )

a. That the application is complete; or ( )

b. That the Department is rejecting the application as incomplete and shall provide a list of deficiencies. Upon determination that the application is incomplete, the Department shall refund one half (1/2) of the application fee. ( )

03. Accuracy and Protectiveness Review. Within sixty (60) days of receipt of an application and upon determination by the Department that the application is complete, the Department will review the application for accuracy and protectiveness based on these and other applicable rules including, but not limited to, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," and IDAPA 58.01.11, "Ground Water Quality Rule". ( )

**024. ~~Decision~~ Notice of Intent to Deny the Permit Application or to Draft a Permit.** (12-31-91)

~~a.~~ Except as provided in Subsection 300.01, ~~w~~Within sixty (60) days of receipt of an application for a new permit or to modify an existing permit, the Director shall: ( )

~~a.~~ ~~issue to the applicant and to the Idaho Department of Lands a~~ Provide public notice of intent to deny ~~a~~ the permit ~~application~~; or ( )

~~b.~~ Provide public notice that the Director has determined that ~~an~~ the application is complete and the Director intends to draft a permit, ~~is seeking public comment, and will hold at least one (1) public meeting on the draft permit in accordance with Section 400. Except as provided in Subsection 300.01, within thirty (30) days of receipt of an application for a small cyanidation processing facility or a pilot facility, the Director shall issue to the applicant a notice of intent to deny or draft a permit.~~ (7-13-05)T( )

~~b.~~ The Director may suspend the running of the sixty (60) or thirty (30) day period for no more than thirty (30) days by requesting more detailed information necessary to ensure completeness and accuracy of an application, or the applicant may suspend the running of the sixty (60) or thirty (30) day period by written request to the Director. Upon receipt of the required information by the Director, the sixty (60) or thirty (30) day period will resume. (7-1-97)

~~e.~~ A notice of intent to deny the permit application shall follow the same procedures as a draft permit issued under this section. (12-31-91)

**035. Basis for Permit Application Denial.** The Director shall deny a ~~draft or final~~ permit application if: (1-1-88)( )

a. The application is inaccurate or incomplete; (1-1-88)

~~b.~~ The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure ~~to protect beneficial uses of the waters of the state. so as to comply with applicable state law; or~~ (7-13-05)T( )

~~c.~~ The applicant has not submitted the appropriate fees. ( )

**046. Permit Fact Sheet.** The Director shall prepare a fact sheet, for each denial or draft permit, which briefly states the principal facts and the significant legal and policy questions considered in the Director's decision. The fact sheet shall include, when applicable: (1-1-88)( )

a. A brief description of the proposed cyanidation facility and the operating plan. (7-13-05)T

b. A brief summary of the basis for the decision, including references to applicable requirements and supporting materials. (1-1-88)

~~c.~~ Reasons why any requested conditions or alternatives to required standards do or do not appear justified. (1-1-88)

~~d.~~ A description of the procedures for reaching a final decision, including: (1-1-88)

~~i.~~ The beginning and ending dates of the public comment period; (1-1-88)

~~ii.~~ The address where comments will be received during the comment period; (1-1-88)

~~iii.~~ Any other procedures by which the public may participate in the final decision; (1-1-88)

~~ed.~~ The name and phone number of the agency representative to contact for additional information. (1-1-88)

301. -- 399. (RESERVED).

400. PUBLIC INVOLVEMENT IN PERMIT PROCEDURES.

01. **Public Notice of Permit Actions.** No public notice is required when a request for a permit modification ~~or revocation~~ is denied. The Director shall give public notice of: (1-1-88)(\_\_\_\_)

- a. Receipt of an application for a permit; (1-1-88)
- b. Any public meeting schedule; (1-1-88)
- c. Issuance of a draft permit or a decision to deny the application for a permit; and (1-1-88)(\_\_\_\_)
- d. An appeal that has been ~~granted~~ filed. (1-1-88)(\_\_\_\_)

02. **Public Notice Information.** All public notices shall contain the name and address of the Department's office processing the permit action, where the application and draft permit will be available for public review, and a brief description of the public involvement procedures. (1-1-88)

03. **Serving the Public Notice.** Public notice of permit actions shall be given by the following methods: (1-1-88)

- a. By mail to: (1-1-88)
  - i. The applicant; (1-1-88)
  - ii. Persons on a mailing list who request to be notified; and (1-1-88)(\_\_\_\_)
  - iii. Other appropriate federal, tribal, state and local government ~~authorities;~~ entities. (1-1-88)(\_\_\_\_)
- b. Publication in a daily or weekly major newspaper of general circulation in the area of the proposed cyanidation facility; and (7-13-05)F(\_\_\_\_)
- c. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected. (1-1-88)

04. **Participation by Idaho Department of Lands.** The Department shall formally request that the Idaho Department of Lands participate in the public meeting with respect to performance criteria for permanent closure. (\_\_\_\_)

045. **Public Comment(s), Public Comment Period, and Public Meetings.** (7-1-93)(\_\_\_\_)

a. Within thirty (30) days after the Director's decision to draft a permit, the Department shall hold a public meeting. Oral or written comments may be submitted by any person at ~~a~~ the public meeting. ~~Such meeting may be held prior to a draft permit or notice of intent to deny a permit, if the Director finds twenty five (25) individuals, or one (1) organization representing twenty five (25) or more members, who request a public meeting based on a water quality issue and related to the technical merits of the application. The request shall be made in writing within ten (10) days following public notice of a receipt of an application for a permit.~~ The meeting may be presided by agency personnel appointed by the Director. ~~Any person wishing to submit oral comments must sign up prior to the meeting. Oral commentaries will receive equal time to submit oral comments. To be considered in the final decision, oral~~ In order for the Department to address public comments in its Response to Public Comments pursuant to Subsection 450.03, comments must be submitted in writing within five (5) days following the public meeting sixty (60) days after the Director's decision to draft a permit. (1-1-88)(\_\_\_\_)

b. ~~Within thirty (30) days of public notice of a draft permit or decision to deny an application for a permit, any person may submit written comments to the Department on issues raised in the notice, draft permit or decision to deny a permit. Pursuant to Section 39-106, Idaho Code, the Director has inherent authority to take oral~~

~~comment on a draft permit at his discretion.~~ From the time an application is received, until sixty (60) days after issuance of the notice pursuant to Subsection 300.04., the public may provide written comments. All written comments submitted during this public comment period shall be considered by the Director. (1-1-88)( )

~~e. All written comments shall be considered by the Director in making the final decision. (1-1-88)~~

401. -- 449. (RESERVED).

450. FINAL PERMIT DECISION.

**01. Issuance.** Within sixty (60) days after the close of the public comment period, the Director shall either issue or deny a permit, or major modification of a permit. Provided however, that if weather conditions prevent the Director from inspecting the proposed or existing cyanidation facility site to obtain information needed to approve or reject a submitted application, he may, in writing to the applicant, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. ( )

~~02. Issuing Notification of the Decision.~~ Within thirty (30) days after the close of the written public comment period on a draft permit, the Director shall issue a final permit decision. The Director shall notify the applicant and each person who requested notice of the final permit decision. This notice shall include reference to the procedures for administrative appeal under Section 996003. For the purpose of this section, a final permit decision means a final decision to issue, deny, modify, or revoke a permit. (1-25-95)( )

**023. Response to Public Comments.** All written comments and information received during the comment period, together with the Department's final permit decision and the response to relevant written comments shall be made available to the public at the time the Director issues the final permit decision. This response shall: (1-1-88)( )

a. Specify any differences between the final permit decision and the draft permit and state the reasons for those differences; (1-1-88)( )

b. Briefly describe and respond to all relevant written comments on the draft permit or denial. (1-1-88)

**04. Basis for Permit Denial.** The Director shall deny a permit if: ( )

a. The application is incomplete or inaccurate; ( )

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or ( )

c. The Idaho Department of Lands has determined that the permanent closure plan does not meet the requirements of Chapter 15, Title 47, Idaho Code. ( )

~~035. Immediate Effect of the Permit.~~ A valid permit authorizes the construction and operation of a cyanidation facility. (1-1-88)

~~04. Duration of Permit.~~ A permit shall remain valid until the Director determines permanent closure is completed, or until such time as the permit is revoked or modified. (1-1-88)

~~05. Duration of a Small Cyanidation Processing Facility Permit.~~ A permit for a small cyanidation processing facility shall remain valid only until the Director determines: (7-13-05)T

~~a. Permanent closure is completed; or (7-1-97)~~

~~b. The lifetime allotment of one hundred twenty thousand (120,000) tons of processed ore is reached; (7-1-97)~~

- ~~e.~~ *The cyanidation facility no longer qualifies as a small cyanidation processing facility; or* (7-13-05)F
- ~~d.~~ *One (1) person or applicant concurrently holds more than one (1) permit for a small cyanidation processing facility where the facilities are located within ten (10) miles of each other; or* (7-13-05)F
- ~~e.~~ *Operations must cease, temporarily or permanently, due to a violation of the Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," or adverse impacts to the beneficial uses of the water of the state; or* (7-1-97)
- ~~f.~~ *To revoke or modify the existing permit.* (7-1-97)
- ~~06.~~ **Duration of the Pilot Facility Permit.** *The permit to operate a pilot facility is valid:* (7-1-97)
  - ~~a.~~ *For one (1) year from date of issuance for a facility conducting a single test; or* (7-1-97)
  - ~~b.~~ *For two (2) years from date of issuance for a facility conducting multiple tests; or* (7-1-97)
  - ~~c.~~ *Until revoked or modified by the Department; or* (7-1-97)
  - ~~d.~~ *Until the facility no longer qualifies as a pilot facility.* (7-1-97)

451. -- 499. (RESERVED).

500. ~~PERMIT ISSUANCE AND CONDITIONS.~~

~~01.~~ **Issuance.** *Within sixty (60) days of the Director's final determination to issue a permit, the Department shall write and issue the permit subject to considerations of the contents of the application, public comments, and responses to those public comments.* (7-13-05)F

~~02.~~ **Conditions.** The following conditions shall apply to and be specified in all permits: (7-13-05)F(\_\_\_\_)

~~a01.~~ **Compliance Required.** The applicant or permittee shall comply with all conditions of the permit. *However, the permit Issuance or possession of a permit issued according to these rules shall not relieve the applicant or permittee of the responsibility to comply with all other applicable local, state, and federal laws.* (1-1-88)(\_\_\_\_)

~~b.~~ **Construction and Operation of Cyanidation Facility.** *The permittee shall ensure that construction, operation and maintenance of the cyanidation facility proceed according to the approved design plans and specifications and the approved operating and closure plans.* (7-13-05)F

~~e02.~~ **As-Built Record Plans and Specifications.** *Complete and accurate A professional engineer registered in the state of Idaho must confirm in writing that all record drawings and specifications, signed by a registered, professional engineer depicting actual construction shall are complete and accurate. These record plans and specifications must be submitted by the permittee to the Director within thirty (30) days after the completion of the construction of each critical phase of facility development as approved by the Department. The record plans and specifications must be accompanied by a final construction report. Alternatively, if the construction proceeded in substantial compliance with the approved plans and specifications, a statement to the effect may be submitted by the registered, professional engineer.* (1-1-88)(\_\_\_\_)

~~a03.~~ **Provide Information.** The permittee shall furnish to the Director within a reasonable or specified time; any information, including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (1-1-88)(\_\_\_\_)

~~e04.~~ **Notifications.** After initial construction; and seasonal and/or temporary closure, the permittee shall, within seven thirty (730) days, provide written notice to the Director of operation start-ups the permittee's intentions

to commence or restart operations. ~~At least thirty (30) days prior to completion of operations, and/or temporary or seasonal operations, the permittee shall provide written notice~~ notify the Director of the permittee's intentions to temporarily, seasonally or permanently close operations. Notification shall provide sufficient ~~to allow~~ time for the Director to ~~inspect all seasonal, temporary and permanent closures~~ provide pre-operational or post-operational inspections, as necessary. (1-1-88)(\_\_\_\_)

**505. Entry and Access.** The permittee shall allow the Director, or a designee obligated by agreement with the Director to comply with the confidentiality provisions of Section 39-111, Idaho Code, to: (1-1-88)

**505.a.** Enter at reasonable times upon the premises of a permitted cyanidation facility or where records required by a permit are kept; (7-13-05)T

**505.b.** Have access to and copy at reasonable times any records that must be kept under the conditions of the permit; (1-1-88)

**505.c.** Inspect at reasonable times any cyanidation facility, equipment, practice, or operation permitted or required by the permit; (7-13-05)T

**505.d.** Sample or monitor at reasonable times, substance(s) or parameter(s) directly related to permit or regulation compliance. (1-1-88)

**506. Reporting.** It shall be the permittee's responsibility to report to the Director: (1-1-88)

**506.a.** Orally, as soon as possible but no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment. (1-1-88)

**506.b.** In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which may be or which may result in a violation of these rules, or Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," or IDAPA 58.01.11, "Ground Water Quality Rule". This report shall contain: (7-13-05)T(\_\_\_\_)

~~(1)~~i. A description of the event and its cause; if the cause is not known, steps taken to investigate and determine the cause; (1-1-88)

~~(2)~~ii. The period of the event including, to the extent possible, the individual(s) involved in the incident(s) and the time(s) and date(s) of the incidents; (1-1-88)(\_\_\_\_)

~~(3)~~iii. Measures taken to mitigate or eliminate the event and protect the public health; and (1-1-88)(\_\_\_\_)

~~(4)~~iv. Steps taken to prevent recurrence of the event; (1-1-88)(\_\_\_\_)

**506.c.** In writing, confirmation of any conditions which may result in violation of any permit condition; (1-1-88)(\_\_\_\_)

**506.d.** In writing, when the permittee knows or should reasonably know of *material* relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director or the Department. Those facts or the correct information shall be included as a part of this report. (1-1-88)(\_\_\_\_)

**507. Discharge Response.** If an unauthorized discharge occurs the permittee shall implement the Department approved emergency and spill response plan; (1-1-88)(\_\_\_\_)

~~i. Report the event(s) pursuant to the reporting requirements under Subsection 500.02.g. of these rules;~~ (7-13-05)T

~~ii. Implement the approved discharge response strategy;~~ (1-1-88)

~~08.~~ **Temporary or Seasonal Closure Plans.** ~~In the event of~~ Prior to temporary or seasonal closure, the permittee shall submit a temporary or seasonal closure plan to the Director for approval. The plan shall describe the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility, the control of drainage from the surrounding area, and the secure storage of chemicals during the period of closure. Within thirty (30) days of receiving the plan, the Director shall approve and/or suggest modifications necessary to protect the waters of the state. The permittee shall ensure that closure complies with an approved plan. In no case shall the permittee complete temporary or seasonal closure prior to implementation of the approved plan. Facilities may not be temporarily or seasonally closed for a period longer than two (2) years unless approved by the Director. (7-13-05)F( )

~~09.~~ **Begin Construction.** If the permittee fails to begin construction of a cyanidation facility within ~~two~~ one (21) years of the effective date of the permit, ~~the Director may void the permit and require a new application will be deemed void.~~ (7-13-05)F( )

~~10.~~ **Permanent Closure.** The permanent closure plan, as approved by the Idaho Department of Environmental Quality in coordination with the Idaho Department of Lands, shall be incorporated by reference into the Department-issued permit as a permit condition and shall be enforceable as such. The Department may evaluate permanent closure based on different performance standards than those used by the Idaho Department of Lands. (7-13-05)F( )

#### 501. COMPLETION OF PERMANENT CLOSURE.

**01. Implementation of a Permanent Closure Plan.** Unless otherwise specified in the approved permanent closure plan, ~~an operator~~ the permittee must begin implementation of the approved permanent closure plan: (7-13-05)F( )

**a.** Within one (1) year of the final addition of cyanide to the ore processing circuit for pilot or small cyanidation processing facilities; or (7-13-05)T

**b.** Within two (2) years of the final addition of cyanide to the ore processing circuit for all other cyanidation facilities; or (7-13-05)T

**c.** If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (7-13-05)T

**02. Submittal of a Permanent Closure Report.** The ~~operator~~ permittee shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the Idaho Department of Environmental Quality and the Idaho Department of Lands to issue a determination that permanent closure, as defined in Section ~~002007~~ of these rules, has been achieved. The permanent closure report shall address: (7-13-05)F( )

**a.** The effectiveness of material stabilization. (7-13-05)T

**b.** The effectiveness of the water management plan and adequacy of the monitoring plan. (7-13-05)T

**c.** The final configuration of the cyanidation facility and its operational/closure status. (7-13-05)T

**d.** The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (7-13-05)T

**e.** The operational/closure status of any land application site of the cyanidation facility. (7-13-05)T

**f.** Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (7-13-05)T

- g.** The short and long term water quality trends in surface and ground water through the statistical analyses of the existing monitoring data collected pursuant to the ore processing by cyanidation permit. (7-13-05)T
- h.** Ownership and responsibility for the cyanidation facility during the defined post-closure period. (7-13-05)T
- i.** The future beneficial uses of the land, surface and ground waters in and adjacent to the closed facilities. (7-13-05)T
- j.** How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (7-13-05)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**503. -- ~~649~~549. (RESERVED).**

**550. VALIDITY AND DURATION OF PERMITS.**

A permit shall remain valid until the Director determines that permanent closure is completed or the Director revokes or modifies the permit. ( )

**551. -- 649. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**750. PERMIT MODIFICATION.**

- 01. Cause for Permit Modification.** Causes for permit modification are: (1-1-88)

  - a.** A material modification or material expansion in the cyanidation facility operation, design or closure plan. (7-13-05)T
  - b.** Natural phenomena substantially different from those anticipated in the original permit. (1-1-88)
- 02. Modification at Request of Permittee.** Requests for modification from the permittee shall include: (1-1-88)

  - a.** A written description of the modification(s); (1-1-88)
  - b.** Data supporting the modification request; (1-1-88)
  - c.** Causes and anticipated effects of the modification. (1-1-88)
- 03. Modification at Request of Director.** Pursuant to Subsection 750.01, if the Director determines that cause exists for permit modification, the Director shall notify the permittee in writing and request information necessary for the Director to modify the permit. (12-31-91)
- 04. Modification Procedure.** The Director shall evaluate the request for a permit modification, based on the information provided in Subsection 750.02 or otherwise obtained by the Department, and determine if the modification requires a major permit modification or a minor permit modification. Major Ppermit modifications shall follow the application processing, public involvement, and administrative appeal procedures of these rules be subject to the provisions of Sections 100, 200, 300, 400, and 450. Minor permit modifications shall not be subject to the provisions of Sections 100, 300 and 400. The permittee shall notify and receive approval from the Department prior



to making minor modifications. (1-1-88)( )

**05. Major Permit Modifications.** Changes that require a major permit modification include but are not limited to: ( )

**a.** Material modifications or material expansions to a cyanidation facility as defined by these rules; or ( )

**b.** A significant increase or decrease in the time the cyanidation facility is expected to be in operation. ( )

**c.** Requests to modify or change water quality compliance criteria and/or water quality compliance monitoring points. ( )

**06. Minor Permit Modifications.** Minor permit modifications are those which, if granted, would not result in any increased hazard to the environment or to the public health. Within thirty (30) days of receipt of a written request for a minor modification, the Department shall complete an evaluation of the request and either approve or deny the request in writing. Minor modifications may include but are not limited to: ( )

**a.** The correction of typographical errors in an approved permit. ( )

**b.** Legal transfer of ownership or operational control. ( )

**c.** A change in the requirements for monitoring or reporting frequency of the quality or quantity of the project air, water or waste generated. ( )

**d.** A change in the cost estimates submitted by a permittee to the Idaho Department of Lands to complete permanent closure. ( )

**e.** A change or modification that is required by a state or federal requirement that supersedes the authorities of these rules. ( )

751. -- 799. (RESERVED).

**800. TRANSFER OF PERMITS.**

**01. Transfer of Permits Allowed.** A permit ~~may~~ shall be ~~automatically~~ transferred to a new permittee if such permittee provides written notice to the Director containing: ( )

**a.** ~~A~~ specific date for transfer of permit responsibility, coverage, and liability between the ~~old~~ current and new permittees, ~~no later than ten (10) days after the date of closure.~~ (1-1-88)( )

**b.** Demonstration that the new permittee has established appropriate financial assurance for permanent closure of the facility; and ( )

**c.** The information required in Subsections 100.03.b., 100.03.d., 100.03.e. and 100.03.g. ( )

**02. Decision.** The Director shall either approve of or deny the transfer of the permit within thirty (30) days of receipt of notice that the current permittee wishes to transfer the permit to a new permittee. ( )

**03. Basis for Permit Denial.** The Director shall deny the request for the permit transfer if the new permittee has not provided the information required in Subsection 800.01. ( )

(BREAK IN CONTINUITY OF SECTIONS)

901. -- ~~949999~~. (RESERVED).

~~950. PUBLIC AND CONFIDENTIAL INFORMATION.~~

~~01. Public Inspection. Except as provided in this section or other applicable law, information obtained or submitted pursuant to these rules will be available to the public for inspection and copying during normal working hours. Anyone requesting Department assistance in collecting, copying or mailing public information must tender, in advance, the reasonable cost of those services. (1-1-88)~~

~~02. Trade Secrets Not Subject to Inspection. Information concerning a pollution source and submitted to the Department pursuant to these rules which, as certified by the owner or operator of such source, relates to production or sales figures or to processes or production unique to the owner or operator, or tends to adversely affect the competitive position of such owner or operator, may be disclosed only to the Board, the Director and the Hearing Officer unless: (1-1-88)~~

- ~~a. The Board, after a hearing, determines that a claim of uniqueness or adverse affect is unwarranted; (1-1-88)~~
- ~~b. The owner or operator expressly consents to disclosure; or (1-1-88)~~
- ~~c. Disclosure is required for prosecution of a violation of the Idaho Environmental Protection and Health Act. (1-1-88)~~

~~03. Other Information Not Subject to Inspection. The Department may decline to release to the public: (1-1-88)~~

- ~~a. Inconclusive preliminary data or reports generated as part of ongoing studies; and (1-1-88)~~
- ~~b. Information obtained as part of ongoing investigations when release would: (1-1-88)~~
  - ~~i. Interfere with enforcement proceedings; (1-1-88)~~
  - ~~ii. Deprive a person of a fair or impartial adjudication; (1-1-88)~~
  - ~~iii. Discourage informants from disclosing information to the Department; (1-1-88)~~
  - ~~iv. Disclose investigative techniques or proceedings; or (1-1-88)~~
  - ~~v. Endanger the safety of Department personnel. (1-1-88)~~

~~951. — 995. (RESERVED).~~

~~996. - Section 996 has been moved and renumbered to Section 003~~

~~997. - Section 997 has been moved and renumbered to Section 006~~

~~998. INCLUSIVE GENDER AND NUMBER.~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (12-31-91)~~

~~999. SEVERABILITY.~~

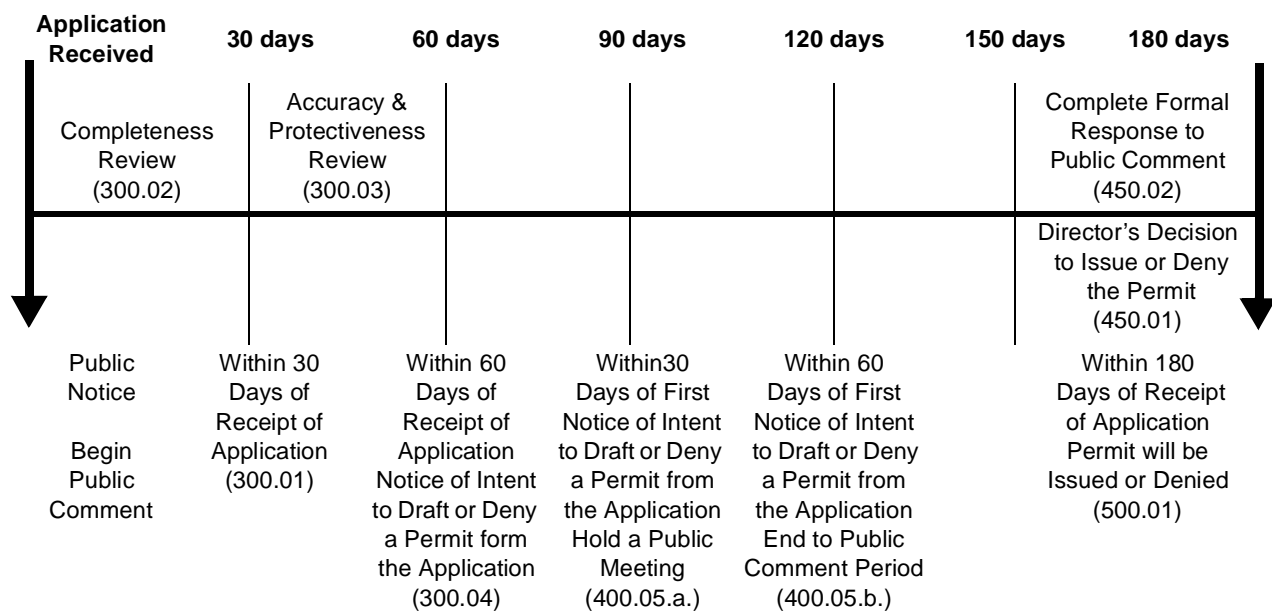
~~Idaho Department of Environmental Quality Rules, IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of the chapter. (1-1-88)~~

**APPENDIX A**

**Application Processing Time Line for Director's Final Decision**

**IDAPA 58.01.13, Rules for Ore Processing by Cyanidation**

The following chart illustrates the time line for processing a permit application and references the corresponding sections from IDAPA 58.01.13.



## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.16 - WASTEWATER RULES**

#### **DOCKET NO. 58-0116-0501 (NEW CHAPTER)**

#### **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. This action is authorized by Chapters 1 and 36, Title 39, 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 September 21, 2005. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The 2005 Legislature enacted Senate Bill 1220 requiring the Department of Environmental Quality (DEQ) to establish facility and design standards. DEQ has initiated this rulemaking to create a new rule chapter in response to that legislation. In addition, DEQ proposes to address other wastewater issues for adoption in the new rule chapter. This rulemaking includes the following:

1) Certain wastewater treatment requirements and definitions have been copied from IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," revised as necessary, and inserted into this new proposed rule chapter. A separate proposed rule docket (58-0102-0504) has been initiated for the purpose of deleting from IDAPA 58.01.02 those sections and definitions that are either unnecessary to remain in rule or have been copied and moved to the proposed rule chapter (IDAPA 58.01.16).

2) Create standards for design of wastewater collection system line extensions.

3) Extend wastewater land application operator compliance deadline by 12 months or until April 15, 2007 to allow sufficient time for land application operators to become licensed

4) Clarify operator licensure requirements for large soil absorption systems with multiple owners.

5) Clarify operator licensure requirements for Class A effluent distribution systems.

6) Add necessary definitions.

7) Add the standard rule sections necessary for conformance with IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator".

Wastewater system owners and operators, developers, consultants, engineers, cities, counties, industry, wastewater professional organizations, and the public at large may be interested commenting on this proposed rule.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

**SECTION 39-107D IDAHO CODE STATEMENT:** Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. Part of this rulemaking involves copying certain provisions that were in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements" (WQS), and moving them to the proposed "Wastewater Rules." To the extent DEQ is simply moving and not changing existing standards, Section 39-107D, Idaho Code, does not apply. In addition, there is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the proposed Wastewater Rules. Therefore, the proposed changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government". The proposed Wastewater Rules address the review and approval of plans and specifications for

sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. This is an activity, however, that DEQ has regulated for years pursuant to Section 39-118, Idaho Code, and DEQ's WQS. To the extent DEQ is not proposing any new regulation of activities, Section 39-107D, Idaho Code, is most likely not applicable.

During the 2005 legislative session, the Idaho Legislature passed SB 1220. Among other things, this legislation amended Section 39-118, Idaho Code, so that it requires that all plans and specifications reviewed by DEQ, or by others as allowed under the new law, comply with "facility and design standards". The legislation then directs DEQ to work with professional engineers to establish such standards. In the past, DEQ reviewed the plans and specifications according to the WQS. The WQS referenced the "Recommended Standards for Sewage Works" as the principle tool DEQ would use in its review process. The proposed Wastewater Rules also reference an updated version of the "Recommended Standards for Sewage Works" as a tool to guide agency review. The proposed rules, however, also add explicit facility standards that must be met in the review and approval process. In this way, the proposed rules appear to modify the existing DEQ regulatory program. Under these circumstances, it is unclear whether the proposed rules are subject to the provisions of Section 39-107D, Idaho Code.

Assuming Section 39-107D, Idaho Code, is applicable, 39-107D(3) provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The proposed Wastewater Rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of waste treatment and disposal facilities. For example, the rules require that joints on wastewater pipes be watertight and be designed to prevent the entrance of roots. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the "Recommended Standards for Wastewater Facilities" - 2004 edition, that are generally accepted and used throughout the United States by engineers and state regulators.

**IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT:** No negative impact occurs from this rulemaking; provision is not applicable.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 47.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this rulemaking, contact Mark Mason at (208) 373-0266 or [Mark.Mason@deq.idaho.gov](mailto:Mark.Mason@deq.idaho.gov).

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[Paula.Wilson@deq.idaho.gov](mailto:Paula.Wilson@deq.idaho.gov)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0116-0501**

**IDAPA 58**  
**TITLE 01**  
**CHAPTER 16**

**58.01.16 - WASTEWATER RULES**

**000. LEGAL AUTHORITY.**

Under Chapters 1 and 36, Title 39, Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules. ( )

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 58.01.16, "Wastewater Rules". ( )

**02. Scope.** These rules establish the procedures and requirements for the planning, design and operation of wastewater facilities and the discharge of wastewaters and human activities which may adversely affect public health and water quality in the waters of the state. ( )

**002. WRITTEN INTERPRETATIONS.**

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

**003. ADMINISTRATIVE PROVISIONS.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". ( )

**004. INCORPORATION BY REFERENCE.**

These rules do not contain documents incorporated by reference. ( )

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

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )

**006. CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". ( )

**007. REFERENCED MATERIAL.**

**01. "Idaho Guidance for Wastewater Facilities."** This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, [www.deq.idaho.gov](http://www.deq.idaho.gov). ( )

**02. "Recommended Standards for Wastewater Facilities."** 2004 Edition, by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers (except Chapters 10, 20, and 30). This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules. This document is

available through Health Education Services at <http://www.hes.org>. ( )

**03. Memorandum of Understanding.** The Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau signed and dated April 4, 2003 provides assistance in determining jurisdiction over water and sewer service lines. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, [www.deq.idaho.gov](http://www.deq.idaho.gov). ( )

**04. "Idaho Standards for Public Works Construction."** 2005 Edition. This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules. This document is available for a fee through the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. ( )

**008. USE OF GUIDANCE IN DESIGN AND REVIEW.**

Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility standards and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the reviewing authority not substitute his or her judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. ( )

**009. (RESERVED).**

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply: ( )

**01. Available.** Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. ( )

**02. Beneficial Use.** Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. ( )

**03. Board.** The Idaho Board of Environmental Quality. ( )

**04. Class A Effluent.** Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. For comprehensive Class A Effluent criteria and permitting requirements refer to IDAPA 58.01.17, "Wastewater Land Application Permit Rules". ( )

**05. Class A Effluent Distribution System.** The delivery system for Class A effluent. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements in Section 203 of these rules. ( )

**06. Collection System.** That portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. ( )

**07. Compliance Schedule or Schedule of Compliance.** A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation,

- prohibition, or standard. ( )
- 08. Department.** The Idaho Department of Environmental Quality. ( )
- 09. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. ( )
- 10. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. ( )
- 11. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. ( )
- 12. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. ( )
- 13. Disinfection.** A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. ( )
- 14. Effluent.** Any wastewater discharged from a treatment facility. ( )
- 15. EPA.** The United States Environmental Protection Agency. ( )
- 16. Facility Standards and Design Standards.** Facility standards and design standards are described in Sections 400, 410, 420 and 430 of these rules. Facility and design standards found in Sections 410, 420, and 430 of these rules must be followed in the planning, design, construction, and review of wastewater facilities. ( )
- 17. Geometric Mean.** The geometric mean of "n" quantities is the "nth" root of the product of the quantities. ( )
- 18. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ( )
- 19. Land Application.** A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. ( )
- 20. License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. ( )
- 21. Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. ( )
- 22. Material Modification.** Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. ( )
- 23. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. ( )
- 24. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. ( )
- 25. Natural Background Conditions.** No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. ( )



**26. Nephelometric Turbidity Units (NTU).** A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. ( )

**27. Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. ( )

**28. Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. ( )

**29. Non-Potable Mains.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. ( )

**30. Non-Potable Services.** The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. ( )

**31. Operating Personnel.** Any person who is employed, retained, or appointed to make system control or system integrity decisions about water quantity or water quality that may affect public health as part of the tasks conducted with the day-to-day operation and maintenance of a public wastewater system. ( )

**32. Owner.** For purposes of Sections 202 through 204, the person, company, corporation, district, association or other organizational entity that owns the public wastewater system, and who provides, or intends to provide wastewater service to system users and is ultimately responsible for the public wastewater system operation. ( )

**33. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. ( )

**34. Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. ( )

**35. Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. ( )

**36. Potable Water.** A water which is free from impurities in such amounts that it is safe for human consumption without treatment. ( )

**37. Potable Water Mains.** Pipelines that deliver potable water to multiple service connections. ( )

**38. Potable Water Service.** Pipelines that convey potable water from a connection to the potable water main across private property to individual consumers. ( )

**39. Primary Treatment.** Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. ( )

**40. Public Wastewater System or Wastewater System.** For purposes of Sections 202 through 204, a public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, or treats two thousand five hundred (2,500) or more gallons of wastewater per day. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any wastewater system with individual septic tanks and individual pump stations that discharge to a common gravity flow subsurface treatment and distribution system when ownership of each septic tank and pumping station is by individual property owner and ownership of the common system is by a public or private entity; any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership. ( )

**41. Quasi-Municipal Corporation.** A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. ( )

**42. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. ( )

**43. Recharge.** The process of adding water to the zone of saturation. ( )

**44. Recharge Water.** Water that is specifically utilized for the purpose of adding water to the zone of saturation. ( )

**45. Responsible Charge (RC).** For purposes of Sections 202 through 204, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. ( )

**46. Responsible Charge Operator.** For purposes of Sections 202 through 204, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site and/or on-call presence at the specified facility. ( )

**47. Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.01.b. of these rules, the qualified licensed professional engineer is also the reviewing authority. ( )

**48. Sanitary Sewer Extension.** As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system. ( )

**49. Secondary Treatment.** Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. ( )

**50. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. ( )

**51. Sludge.** The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. ( )

**52. Special Resource Water.** Those specific segments or bodies of water which are recognized as needing intensive protection: ( )

- a. To preserve outstanding or unique characteristics; or ( )
- b. To maintain current beneficial use. ( )
53. **State.** The state of Idaho. ( )
54. **Substitute Responsible Charge Operator.** A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. ( )
55. **Surface Water Body.** All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. ( )
56. **Treatment.** A process or activity conducted for the purpose of removing pollutants from wastewater. ( )
57. **Treatment System.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility, waste treatment system, waste treatment facility, or waste treatment plant. ( )
58. **User.** Any person served by a public wastewater system. ( )
59. **Disposal Facility.** Any facility used for disposal of any wastewater. ( )
60. **Wastewater.** Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. ( )
61. **Wastewater Pipelines.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. ( )
62. **Wastewater System.** Wastewater system includes any treatment system or disposal facility. ( )
63. **Wastewater System Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment or collection system in order to safeguard the public health and environment. ( )
64. **Water Main Extension.** An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. ( )
65. **Water Pollution.** Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. ( )
66. **Waters and Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. ( )

**67. Watershed.** The land area from which water flows into a stream or other body of water which drains the area. ( )

**011. -- 200. (RESERVED).**

**201. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.**

**01. Appropriate Control Measures.** The Department, through approval or disapproval of plans for wastewater treatment and disposal facilities, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained in IDAPA 58.01.02, "Water Quality Standards". ( )

**02. Degree of Treatment.** The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following: ( )

- a. The uses which are made or desired of the receiving water; ( )
- b. The volume and nature of flow of the receiving water; ( )
- c. The quantity and quality of the wastewater to be treated; and ( )
- d. The presence or absence of other sources of water pollution on the same watershed, stream segment or aquifer. ( )

**03. Operation.** Any person who owns or operates any sewage or other wastewater treatment facility must at all times: ( )

- a. Insure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; and ( )
- b. Maintain such facility in good repair. ( )

**04. Treatment Records.** Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to: ( )

- a. Treated wastewater discharge volumes; and ( )
- b. Treated wastewater discharge BOD; and ( )
- c. Treated wastewater discharge suspended solid concentration; and ( )
- d. Discharge pH; and ( )
- e. Discharge temperatures. ( )

**05. Falsification of Records.** It is a violation of these rules for any person to falsify or knowingly render inaccurate any treatment record which can be required as provided in these regulations. ( )

**202. CLASSIFICATION OF WASTEWATER SYSTEMS.**

**01. Classification Requirement.** All public wastewater systems shall be classified based on indicators of potential health risks. ( )

- a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be

completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions. ( )

**b.** The Department shall review system classification rating forms submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals ( )

**02. Classification Criteria.** Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: ( )

**a.** Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. ( )

**b.** Complexity or size of collection systems. ( )

**c.** Other criteria deemed necessary to completely classify systems. ( )

**203. WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.**

**01. System Operator Licensure Requirement.** Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of the wastewater treatment system and collection system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ten (10) days of such change. ( )

**02. Responsible Charge Operator License Requirement.** An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system, where present, and each collection system as determined by the Department. ( )

**03. Substitute Responsible Charge Operator.** At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. ( )

**04. Wastewater System Operator Licensure.** All other operating personnel at public wastewater systems including each treatment system and collection system must hold a valid license. ( )

**05. Class A Reclaimed Wastewater System Operator License Exception.** Any public wastewater system operating personnel that exclusively operate a Class A Effluent Distribution System of a Class A Municipal Reclaimed Wastewater System permitted in accordance with IDAPA 58.01.17, "Wastewater Land Application Permit Rules," is not subject to operator licensing requirements. ( )

**06. General Compliance Deadline.** All public wastewater systems addressed in Sections 202 and 203 shall be in compliance with these rules by April 15, 2006. ( )

**07. Land Application Operator Compliance Deadline.** Each wastewater land application system addressed in these rules shall employ, retain or contract with licensed land application operating personnel by April 15, 2007. ( )

**08. Qualifications for Operator Licensure.** All wastewater system operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses. ( )

**204. CONTRACTING FOR SERVICES.**

Public wastewater systems may contract with a licensed public wastewater system operator or with a public wastewater system having licensed operators to provide supervision. The contracted public wastewater system operator or contracted entity shall employ and assign to that system an operator licensed at the grade equal to or greater than the classification of the system. ( )

**205. -- 259. (RESERVED).**

**260. SUBSURFACE SEWAGE OR WASTE DISPOSAL.**

Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses. ( )

**261. -- 399. (RESERVED).**

**400. REVIEW OF PLANS FOR WASTE TREATMENT OR DISPOSAL FACILITIES.**

All applicable laws, rules and standards shall be used in the review of plans and specifications for waste treatment or disposal facilities, wastewater pipelines and other wastewater systems. "Recommended Standards for Wastewater Facilities - 2004 edition" by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers (except Chapters 10, 20, and 30) shall be used as guidance in the review of plans and specifications for waste treatment or disposal facilities and other wastewater systems. The "Idaho Guidance for Wastewater Facilities" shall be used only to provide assistance in applying and interpreting these rules. ( )

**01. Plan and Specification Review.** ( )

**a.** Except as provided in Subsection 400.01.b., all plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities, or for material modifications to existing sewage treatment plants or systems, waste treatment or disposal facilities shall be submitted to the Department for review and approval before construction may begin and all construction shall be in substantial compliance therewith. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 400.01.a. with such records including the final decision rendered and the timeliness thereof. No material deviation shall be made to the approved plans and specifications without the prior approval of the Department. ( )

**b.** Plans developed for routine maintenance or equipment replacement activities or plans for sanitary sewer extensions, when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, shall not require preconstruction approval by the Department, provided that such plans and specifications are reviewed and approved by a qualified Idaho licensed professional engineer, who was not involved in the preparation of the plans and specifications being reviewed, to verify compliance with the requirements of these rules prior to initiation of construction. Any plans approved pursuant to Subsection 400.01.b. shall be transmitted to the Department at the time construction is authorized along with a statement that the plans comply with the requirements of these rules and that construction has been authorized by the city, county, quasi-municipal corporation or regulated public utility that will own and operate the system. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the Department for review and approval prior to initiation of construction. ( )

**02. Professional Engineer.** Plans and specifications for construction, alteration or expansion of any sewage system, sewage treatment plant or system, or other waste treatment or disposal facility shall be prepared by or under the supervision of an Idaho registered professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by a registered professional engineer or a person under the supervision of a registered professional engineer. ( )

**03. Record Plans and Specification.** Within thirty (30) calendar days of the completion of construction of facilities covered by Subsection 400.01, record plans and specifications based on information

provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by a qualified Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. ( )

**04. Compliance With Applicable Standards and Rules.** All plans and specifications submitted to satisfy the requirements of Section 400 or approved in compliance with Section 400, shall be in compliance with the requirements of these rules and shall conform in style and quality to regularly accepted engineering standards. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with these rules. ( )

**05. Waiver of Approval Requirement.** The Department may waive the plan and specification approval for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. ( )

**401. -- 409. (RESERVED)**

**410. FACILITY AND DESIGN STANDARDS FOR WASTEWATER SYSTEMS - ENGINEERING REPORTS AND FACILITY PLANS.**

**01. Engineering Reports and Facility Plans Required.** Engineering Reports and current Facility Plans are required and shall address hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Engineering Reports must be completed for minor collection system, pump station, and interceptor projects. Comprehensive Facility Plans must be completed or have been completed for projects involving new, expanded, upgraded, or rehabilitated wastewater treatment facilities and major collection, interceptor sewer, and pump station projects and address the entire potential service area of the project. The determination of classification as major or minor collection interceptor sewer and pump station projects will be made by the reviewing authority based on review of recommended classification by the owner. ( )

**02. Submittal to Reviewing Authority.** Documents referenced in Subsection 410.01 must be submitted to the reviewing authority for review and approval, unless the reviewing authority already has the reports and plans in its possession. ( )

**03. Engineering Report or Facility Plan Contents.** The Engineering Report or Facility Plan must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The Engineering Report or Facility Plan typically identifies and evaluates wastewater related problems; assembles basic information; presents criteria and assumptions; examines alternate projects, with preliminary layouts and cost estimates; describes financing methods, sets forth anticipated charges for users; reviews organizational and staffing requirements; offers a conclusion with a proposed project for client consideration; and outlines official actions and procedures to implement the project. ( )

**411. -- 419. (RESERVED).**

**420. FACILITY AND DESIGN STANDARDS FOR WASTEWATER SYSTEMS - SUBMISSION OF PLANS AND SUPPORT DOCUMENTS.**

Submissions to the reviewing authority for construction of wastewater systems shall include sealed plans and specifications, design criteria, the appropriate construction permit applications, review forms, and permit fee if required. The plans and specifications shall contain sufficient detail to allow for the contracting and construction of the wastewater systems. ( )

421. -- 429. (RESERVED)

**430. FACILITY AND DESIGN STANDARDS FOR WASTEWATER SYSTEMS - DESIGN AND CONSTRUCTION OF WASTEWATER PIPELINES.**

**01. Design Capacity and Design Flow.** In general, sewer capacities shall be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. ( )

**02. Details of Design and Construction.** ( )

**a. Minimum Pipe Size.** Minimum pipe size shall be based on cleaning capability and hydraulic capacity, and shall conform with the required planning documents. ( )

**b. Depth.** Wastewater pipelines shall be installed sufficiently deep or specifically designed to prevent freezing and to protect the facilities from surface loading. ( )

**c. Buoyancy.** Buoyancy of wastewater pipelines shall be considered and flotation of the pipe shall be prevented with appropriate construction where high groundwater conditions are anticipated. ( )

**d. Slope.** Wastewater pipelines shall be designed to have sufficient slope and velocity to "self clean" or transport constituent solids to the treatment facility or the owner shall periodically service wastewater pipelines to flush, transport, or remove solids from wastewater pipelines with minimal velocities. ( )

**e. Materials.** ( )

**i.** Any generally accepted material for wastewater pipelines will be given consideration. The material selected should be adapted to local conditions, such as: character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loadings, abrasion, corrosion, and similar problems. ( )

**ii.** Couplings complying with applicable standard specifications shall be used for joining dissimilar materials. ( )

**iii.** For new pipe materials for which standards have not been established, the design engineer shall provide complete pipe specifications and installation specifications developed on the basis of criteria adequately documented and certified in writing by the pipe manufacturer to be satisfactory for the specific application. ( )

**f. Installation.** Installation specifications shall contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. Reference Idaho Standards for Public Works Construction, 2005 Edition, and subsequent revisions, for assistance in designing such specifications. ( )

**g. Joints and Infiltration.** ( )

**i.** The installation of joints and the materials used shall be included in the specifications. Wastewater pipeline joints shall be designed to minimize infiltration and to prevent the entrance of roots throughout the life of the system. Reference Idaho Standards for Public Works Construction, 2005 Edition, and subsequent revisions, for assistance in designing such specifications. ( )

**ii.** Service connections to the wastewater pipeline main shall be water tight and not protrude into the wastewater pipelines. If a saddle type connection is used, it shall be a device designed to join with the types of pipe which are to be connected. All materials used to make service connections shall be compatible with each other and with the pipe materials to be joined and shall be corrosion proof. ( )

**h. Manholes.** Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections. Cleanouts may be used only for special conditions and shall not be substituted for



manholes nor installed at the end of laterals greater than one hundred fifty (150) feet in length. ( )

**i.** Testing. Testing shall conform with Section 500.3.4 of the “Idaho Standards for Public Works Construction”. ( )

**j.** Inverted Siphons. Inverted siphons shall have not less than two (2) barrels. They shall be provided with necessary appurtenances for maintenance, convenient flushing, and cleaning equipment. Design shall provide sufficient head and appropriate pipe sizes to secure sufficient velocities for design average flows. ( )

**k.** Wastewater Pipelines in Relation to Surface Water Bodies. The top of all wastewater pipelines entering or crossing surface water bodies shall be at a sufficient depth below the natural bottom of the bed or otherwise designed to protect the wastewater pipeline. ( )

**i.** Wastewater pipelines located along surface water bodies shall be located outside of the bed and sufficiently removed therefrom to provide for future possible stream widening and to prevent pollution by siltation during construction. ( )

**ii.** Structures. Wastewater pipeline outfalls, headwalls, manholes, gate boxes, or other structures shall be designed to address anticipated flood flows of the surface water bodies. ( )

**iii.** Alignment. Wastewater pipelines crossing surface water bodies should be designed to cross the surface water body as nearly perpendicular to the surface water body flow as possible and shall be free from change in grade. ( )

**iv.** Materials. Wastewater pipelines entering or crossing surface water bodies shall be constructed of ductile iron pipe or other suitable pipe with restrained joints; otherwise they shall be constructed so they will remain watertight and free from changes in alignment or grade. Material used to back-fill the trench shall be stone, coarse aggregate, washed gravel, or other materials which will not readily erode, cause siltation, damage pipe during placement, or corrode the pipe. ( )

**v.** Siltation and Erosion. Construction methods that will minimize siltation and erosion shall be employed. ( )

**l.** Aerial Crossings. Support shall be provided for all joints in pipes utilized for aerial crossings. Restrained joints or structural casings are required. ( )

**m.** Cross Connections Prohibited. There shall be no physical connections between a public or private potable water supply system and a wastewater pipeline, or appurtenance thereto, which would permit the passage of any wastewater or polluted water into the potable supply. No water pipe shall pass through or come into contact with any part of a wastewater pipeline manhole. ( )

**n.** Protection of Water Sources, Supplies. When wastewater pipelines are proposed in the vicinity of any drinking water sources or supplies or other drinking water facilities, requirements of IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” shall be used to confirm acceptable isolation distances. ( )

**o.** Relation to Potable Water Mains. ( )

**i.** Non-potable mains in relation to potable water mains. ( )

(1) Parallel installation requirements. ( )

(a) Greater than ten (10) feet separation: no conditions. ( )

(b) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main constructed with potable-water class pipe. ( )

(c) Less than six (6) feet separation: engineer to submit data to the Department for review and approval that this installation will protect public health and environment and non-potable main constructed with potable-water

- class pipe. ( )
- (d) Never in same trench. ( )
- (2) Non-potable mains crossing potable water mains requirements. ( )
- (a) Eighteen (18) inches or more vertical separation with potable water main above non-potable main: non-potable main joint as far as possible from potable water main. ( )
- (b) Less than eighteen (18) inches vertical separation: non-potable main constructed with potable water class pipe and non-potable main joint as far as possible from potable water main; or sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ( )
- ii. Non-potable services in relation to potable water services and non-potable services in relation to potable water mains. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. ( )
- (1) Parallel installation requirements. ( )
- (a) Greater than six (6) feet separation: no conditions. ( )
- (b) Less than six (6) feet separation: engineer to submit data that this installation will protect public health and environment and non-potable service constructed with potable water class pipe. ( )
- (c) Never in same trench. ( )
- (2) Non-potable services crossing potable water services or potable water mains requirements. ( )
- (a) Eighteen (18) inches or more separation with potable water service or main above non-potable service: non-potable main joint as far as possible from potable water main. ( )
- (b) Less than eighteen (18) inches separation or potable water service or main below non-potable service: non-potable service or main constructed with potable water class pipe and non-potable main joint as far as possible from potable water main; or sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ( )

**431. -- 492. (RESERVED).**

**493. FACILITY AND DESIGN STANDARDS FOR WASTEWATER SYSTEMS - WASTEWATER LAGOONS.**

These rules pertain to all new and existing wastewater lagoons, including municipal and industrial lagoons, discharging and non-discharging lagoons, treatment lagoons, storage lagoons, and any other lagoons that if leaking, have the potential to degrade waters of the state. These rules do not apply to single-family dwellings utilizing a single lagoon, two (2) cell infiltrative system, or those animal waste lagoons excluded from review under Section 39-118, Idaho Code. ( )

**01. Seepage Testing Requirements.** All existing lagoons covered under these rules must be seepage tested by a qualified licensed professional engineer by April 15, 2008, and all new lagoons must be seepage tested by a qualified licensed professional engineer as a part of the construction process. All lagoons covered under these rules must be seepage tested by a qualified licensed professional engineer every five (5) years after the initial testing. The procedure for performing a seepage test or alternative analysis must be approved by the Department, and the test results must be submitted to the Department. If an existing lagoon has had seepage testing done and results submitted to the Department before April 15, 2008, the owner of that lagoon has five (5) years from the date of the testing to comply with this requirement. ( )

**02. Allowable Seepage Rates.** ( )

**a.** Design Standard. Lagoons shall be designed for a maximum leakage rate of five hundred (500)

gallons per acre per day. ( )

**b.** Operating Standard. The leakage rate for lagoons constructed after April 15, 2006 shall be no more than zero point one hundred twenty-five (0.125) inches (1/8 inch) per day, which is approximately thirty-four hundred (3400) gallons per acre per day. The leakage rate for existing lagoons constructed prior to April 15, 2006 shall be no more than zero point twenty-five (0.25) inches (1/4 inch) per day. ( )

**03. Requirements for Lagoons Leaking Above the Allowable Amount.** If a lagoon is found to be leaking at a rate higher than that allowed under Subsection 493.02.b., the owner of the lagoon is required to: ( )

**a.** Repair the leak and retest for compliance; ( )

**b.** Re-line the lagoon and retest for compliance; ( )

**c.** Drain the lagoon in an approved manner and stop using the lagoon; or ( )

**d.** Develop a plan, based on ground water sampling and modeling, and determine the impact of the leaking lagoon on the environment. Any impact must comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards". If the impact does not comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards," the owner of the lagoon must follow one (1) of the steps set out in Subsections 493.03.a. through 493.03.c. ( )

**494. -- 599. (RESERVED).**

**600. LAND APPLICATION OF WASTEWATER(S) OR RECHARGE WATERS.**

Land application of wastewater or recharge waters is subject to the following requirements: ( )

**01. Land Application Permit.** Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, "Wastewater Land Application Permit Rules," require a permit prior to land application of certain types of wastewater. ( )

**02. Applied Waters Restricted to Premises.** Wastewater(s) or recharge waters applied to the land surface must be restricted to the premises of the application site unless permission has been obtained from the U.S. Environmental Protection Agency authorizing a discharge into the surface waters of the state. ( )

**03. Hazard or Nuisance Prohibited.** Wastewaters must not create a public health hazard or a nuisance condition. ( )

**04. Monitoring.** Provision must be made for monitoring the quality of the ground water in proximity of the application site. The ground water monitoring program is subject to approval by the Department. All data and reports resulting from the ground water monitoring program must be submitted to the Department upon request. The minimum frequency of monitoring and data submittal will be determined by the Department and in general will be dependent upon: ( )

**a.** The nature and volume of wastewater material or recharge water; ( )

**b.** The frequency and duration of application; and ( )

**c.** The characteristics of the soil mantle on and lithology underlying the application site. ( )

**05. Basis for Evaluation.** The evaluation for an approval to irrigate, either by sprinkling or flooding or surface spreading of wastewater material or by burying wastewater material or recharge water in the upper soil horizon as a method of treatment, must include, but will not necessarily be limited to, consideration of the following items: ( )

**a.** The type and quantity of wastewater(s) proposed for land application. In general, the wastewater(s) organic constituents are to be biologically degradable and inorganic constituents must be utilized by vegetation or those organisms normally present in the soil. Other wastewater(s) or recharge waters will be considered provided it

can be shown that land application will not adversely affect beneficial uses of waters of the state. ( )

**b.** The nature of the soils and geologic formations underlying the application site. The entity proposing the activity must provide reasonable assurance that the soils and site geology will provide the required level of treatment and will not allow movement of pollutants into the underlying ground water. ( )

**c.** The ability of the soil and vegetative cover on the application site to remove the pollutants contained in the applied waters through the combined processes of consumptive use and biological and chemical inactivation. ( )

**601. -- 649. (RESERVED).**

**650. SLUDGE USAGE.**

**01. Disposal Plans Required.** Sludge can be utilized as soil augmentation only in conformance with: ( )

**a.** A Department approved sludge disposal plan; or ( )

**b.** Procedures and in a manner approved by the Department on a site-by-site basis. ( )

**02. Basis for Evaluation.** Sludge disposal plans and sludge utilization proposals will be evaluated by the Department in regard to their protection of water quality and public health. ( )

**03. Elements of Plans and Proposals.** Plans and proposals must at a minimum provide: ( )

**a.** That only stabilized sludge will be used. ( )

**b.** The criteria utilized for site selection, including: ( )

**i.** Soil description; ( )

**ii.** Geological features; ( )

**iii.** Groundwater characteristics; ( )

**iv.** Surrounding land use; ( )

**v.** Topography; and ( )

**vi.** Climate. ( )

**c.** A description of the application process. ( )

**d.** A statement detailing procedures to prevent application which could result in a reduction of soil productivity or in the percolation of excess nutrients. ( )

**e.** Identification of potential adverse health effects in regard to the sludge and its proposed use. ( )

**f.** Delineation of methods or procedures to be used to alleviate or eliminate adverse health effects. ( )

**651. -- 999. (RESERVED).**

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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

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

#### **IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790**

*02-0602-0502, Rules Pertaining to the Idaho Commercial Feed Law.* Updates incorporation by reference.

*02-0612-0501, Rules Pertaining to the Idaho Commercial Fertilizer Law.* Updates incorporation by reference.

*02-0641-0501, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001.* Updates incorporation by reference.

#### **IDAPA 07 – DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, Idaho 83642**

*07-0203-0501, Rules Governing Permit Fee Schedule.* Eliminates the double permit fee payment for plumbing contractors who install both the plumbing and water and sewer service lines in residences.

#### **IDAPA 08 – BOARD OF EDUCATION/DEPARTMENT OF EDUCATION PO Box 83720, Boise, ID 83720-0027**

##### *08.02.02, Rules Governing Uniformity.*

**\*\*08-0202-0503,** Revises the Idaho's teacher standards that are incorporated by reference.

**\*\*08-0202-0504,** Removes the "reading in the content area" discrete course as a requirement to meet the Idaho Standards for teacher certification.

**\*\*08-0202-0505,** Revises specific teacher endorsement requirements to ensure the requirements align with Idaho's performance-based teacher preparation standards.

**\*\*08-0202-0506,** Updates and clarifies language in the Code of Ethics for Idaho Professional Educators.

**\*\*08-0202-0507,** Allows individuals who have completed an official armed forces training program and have provided notarized copies of their certificates of completion to be considered highly qualified to teach high school ROTC courses.

**\*\*08-0202-0508,** Eliminates special endorsement areas not specifically required for any one of the special education program assignments; realigns the Hearing Impaired and Visually Impaired endorsements; and adds definitions to clarify roles of Consulting and Supervisors/Coordinators of Special Education teachers.

##### *08.02.03, Rules Governing Thoroughness.*

**08-0203-0504,** Extends the curricular materials selection adoption cycle to 6 years and adds limited English proficiency to the subject area.

**\*\*08-0203-0505,** Adopts the physical education standards guidelines for Idaho's K-12 students.

#### **IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR PO Box 83720, Boise, ID 83720-0093**

##### *09.01.04, Rules of the Benefit Payment Control Bureau.*

**09-0104-0502,** Removes provision allowing offset to occur on overpayments that resulted from a fraud determination to make the rule consistent with statute.

**09-0104-0503,** Adds definitions for "fraud overpayment" and "non-fraud overpayment"; indicates how payments for

overpayments will be applied by the department; and clarifies how payments made by claimants on overpayments with new penalties and/or accrued interest are going to be applied.

**09.01.06, Rules of the Appeals Bureau.**

**09-0106-0501**, Clarifies type of evidence that may be admitted or excluded from an appeals hearing.

**09-0106-0502**, Provides that if no party appears to present additional evidence at an appeal hearing, the examiner may make a decision on the existing record, and specify what that record will include.

**09-0135-0509, Rules of the Employer Accounts Bureau.** Eliminates from consideration on the “direction and control” test for an independent contractor whether the putative employer can terminate the worker without contractual liability.

**IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**  
**5535 W. Overland Road, Boise, ID 83705-2728**

**10-0101-0501, Rules of Procedure.** Updates Board contact information; and precludes the Board from proctoring exams for another jurisdiction except for state-specific exams.

**IDAPA 11 – IDAHO STATE POLICE**  
**PO Box 700, Meridian, ID 83680-0700**

**11-1101-0501, Rules of the Idaho Peace Officer Standards and Training Council.** Adds exception language to Advanced Certificate requirements; updates Level I Reserve curriculum, the certification of vocational law enforcement programs, and canine team certification.

**11-1102-0501, Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers.** Adds training and certification requirements for part-time Juvenile Detention Officers.

**11-1104-0501, Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers.** Establishes training and certification requirements for Correction, Adult Probation, and Parole Officers.

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

**16-0210-0501, Idaho Reportable Diseases.** Clarifies language; adds Norovirus as a reportable diseases; and reduces reporting times for Hepatitis A, Salmonella, Shigella, and Tularemia.

**16-0601-0501, Rules Governing Family and Children’s Services.** Deletes language that suspends or terminates adoption assistance benefits for failure to complete the annual recertification process.

**16-0612-0501, Rules Governing the Idaho Child Care Program (ICCP).** Limits child care assistance to 3 months per year for parents looking for work.

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

**18-0173-0501, Rule to Implement the Individual Health Insurance Availability Act Plan Design.** New plan gives persons who may otherwise be unable to obtain coverage due to health conditions an option to purchase a high deductible plan coupled with a federally qualified Health Savings Account.

**IDAPA 19 – STATE BOARD OF DENTISTRY**  
**708½ W. Franklin St., Boise, ID 83702**

**19.01.01, Rules of the Idaho State Board of Dentistry.**

**19-0101-0502**, New oral conscious sedation permit allows dentists to administer medications orally rather than intravenously; consolidates and adds provisions to existing sedation rules.

**19-0101-0503**, Changes dentist and hygienist license renewal from an annual to biennial requirement.

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

**\*\*20-0201-0501, Rules Pertaining to the Idaho Forest Practices Act.** Amends and clarifies stream protection rules



relating to shade, large organic debris, slash removal, stream crossings, reuse of existing roads and prescribed burning within stream protection zones.

**IDAPA 21 – DIVISION OF VETERANS SERVICES  
320 Collins Road, Boise, ID 83702**

**21-0101-0501, Rules Governing Residency and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure.** Prohibits the possession of all weapons in state veterans' homes.

**21-0102-0501, Rules Governing Emergency Relief for Veterans.** Clarifies that there are no written interpretations for this chapter.

**21-0103-0501, Rules Governing Medicaid Qualified Units in Idaho State Veterans Homes.** Adds Medicare certification to the rule.

**21-0104-0501, Rules Governing the Idaho State Veterans Cemetery.** Allows for an additional \$300 charge for preparation of interment site in cemetery areas where there are no pre-placed crypts.

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

**25-0101-0502, Rules of the Outfitters and Guides Licensing Board.** Amends and deletes definitions; indicates that temporary employment, short-term loan, or transfer of guides shall not be on a routine basis; updates language to reflect industry changes; identifies penalty and annual license fee requirements; deletes redundancies currently in statute; clarifies application, operation, and records requirements and waiting lists and selection criteria; makes Clearwater River stickers on guide boats permanent; clarifies boundaries; identifies maximum numbers of boats to be used at any one time; and adds new river sections.

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION  
PO Box 83720, Boise, ID 83720-0074**

**31-1101-0501, Safety and Accident Reporting Rules for Public Utilities Regulated by the Idaho Public Utilities Commission.** Adopts by incorporation several national safety codes.

**IDAPA 38 – DEPARTMENT OF ADMINISTRATION  
PO Box 83720, Boise, ID 83720-0003**

**38-0602-0501, Rules Governing the Idaho Emergency Communications Commission Grants.** New chapter establishes rules governing the grant process.

**IDAPA 57 – SEXUAL OFFENDER CLASSIFICATION BOARD  
1299 N. Orchard St., Suite 110, Boise, ID 83706**

**57-0101-0501, Rules of the Sexual Offender Classification Board.** Updates incorporation by reference; clarifies specialized training requirements for psychosexual evaluators; training standard for initial certification increased to 200 hours; makes Certified Evaluator application fees non-refundable; requires adult client evaluation reports be submitted with evaluator applications; and clarifies that offender's refusal to participate in a polygraph examination during evaluation will not be considered as failure to participate.

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY  
1410 N. Hilton, Boise, ID 83706-1255**

**58.01.01, Rules for the Control of Air Pollution in Idaho.**

**\*\*58-0101-0504,** Revises emission registration requirements for Title V sources by consolidating emissions registration and emissions inventories into single project; and allows emissions data submissions to be completed using a Web-based collection program. Comment by: 10/11/05.

**\*\*58-0101-0507,** Revises certain currently-listed sources that are exempt from air quality permits to construct; and increases operating hours allowed for stationary internal combustion engines used for emergency purposes. Comment by: 10/11/05.

**58.01.02, Water Quality Standards and Wastewater Treatment Requirements.**

**58-0102-0503,** Revises the HH criteria to account for revised fish consumption rates and information in the Integrated Risk Information System database on health effects; and adopts an Idaho specific cadmium aquatic life criterion. Comment by: 10/7/05.

**58-0102-0504,** Changes chapter name; deletes and moves sections and definitions relating to wastewater treatment to

a new chapter (58.01.16); and adds required sections. Comment by: 10/5/05.

**58-0108-0501, Idaho Rules for Public Drinking Water System.** Establishes facility and design standards for drinking water line extensions; and adds required sections. Comment by: 10/5/05.

**58-0113-0502, Rules for Ore Processing by Cyanidation.** Increases permit processing fees to assure compliance with state and federal law; and adds required sections. Comment by: 10/5/05.

**58-0116-0501, Wastewater Rules.** New chapter creates standards for design of wastewater collection system line extensions; extends wastewater land application operator compliance deadline; clarifies operator licensure requirements for different systems; and incorporates treatment requirements and definitions from 58.01.02. Comment by: 10/5/05.

**The Deadline For Submitting Written Comments For These Rulemakings  
Is September 28, 2005, Unless Otherwise Listed.**

**\*\*Public Hearings Have Been Scheduled For These Dockets.**

Please refer to the Idaho Administrative Bulletin, **September 7, 2005, Volume 05-9** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

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

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