

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 05-1 refers to the first Bulletin issued in calendar year 2005; Bulletin 06-1 refers to the first Bulletin issued in calendar year 2006. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 05-1 refers to January 2005; Volume No. 05-2 refers to February 2005; and so forth. Example: The Bulletin published in January of 2006 is cited as Volume 06-1. The December 2005 Bulletin is cited as Volume 05-12.

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 Rulemaking Index of Idaho Administrative Rules**, 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.

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 become 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 RuleMaking 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://adm.idaho.gov/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" denotes the main Section number of the rule to which the citation refers.

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 2006

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
06-1	January 2006	*November 19, 2005	January 4, 2006	January 25, 2006
06-2	February 2006	January 5, 2006	February 1, 2006	February 22, 2006
06-3	March 2006	February 3, 2006	March 1, 2006	March 22, 2006
06-4	April 2006	March 3, 2006	April 5, 2006	April 26, 2006
06-5	May 2006	March 31, 2006	May 3, 2006	May 24, 2006
06-6	June 2006	May 5, 2006	June 7, 2006	June 28, 2006
06-7	July 2006	June 2, 2006	July 5, 2006	July 26, 2006
06-8	August 2006	June 30, 2006	August 2, 2006	August 23, 2006
06-9	September 2006	August 4, 2006	September 6, 2006	September 27, 2006
06-10	October 2006	**August 23, 2006	October 4, 2006	October 25, 2006
06-11	November 2006	October 6, 2006	November 1, 2006	November 22, 2006
06-12	December 2006	November 3, 2006	December 6, 2006	December 27, 2006

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07-2	February 2007	January 5, 2007	February 7, 2007	February 28, 2007
07-3	March 2007	February 2, 2007	March 7, 2007	March 28, 2007
07-4	April 2007	March 2, 2007	April 4, 2007	April 26, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 24, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 28, 2007
07-7	July 2007	June 1, 2007	July 4, 2007	July 26, 2007
07-8	August 2007	June 29, 2007	August 1, 2007	August 23, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 27, 2007
07-10	October 2007	**August 22, 2007	October 3, 2007	October 25, 2007
07-11	November 2007	October 5, 2007	November 7, 2007	November 22, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	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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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-41

ORGANIZATION OF THE LEWIS AND CLARK TRAIL COMMITTEE

WHEREAS, the Lewis and Clark Trail has great historical significance to the State of Idaho; and

WHEREAS, the trail passes through multiple state and federal jurisdictions and private property, it is important that Idaho have an official organization to promote responsible recreational use and tourism associated with the trail and assure the protection and stewardship of this historic resource; and

WHEREAS, it will be of economic and educational importance to continue the coordination of activities related to the Lewis and Clark Trail well beyond the bicentennial celebration ending in 2006;

NOW, THEREFORE, I, JAMES RISCH, Governor of the State of Idaho, do hereby reorganize and continue the Idaho Lewis and Clark Trail Committee as an advisory body to state, local and federal governments on preserving and managing the Lewis and Clark Trail and activities relating to the Lewis and Clark Expedition.

The Committee shall:

- 1. Act as the coordinating organization in planning activities to continue gaining regional and national recognition of the historic significance of the Lewis and Clark Trail in Idaho and the contributions of the Lewis and Clark Expedition to Idaho history.*
- 2. Promote appropriate development and recreation in the vicinity of the Lewis and Clark Trail route as well as protection of the trail and associated historic sites.*
- 3. Act in an advisory capacity to other Idaho commissions, bureaus, agencies and committees by making recommendations regarding their activities and policies that relate to the trail and history of the Lewis and Clark Expedition.*
- 4. Serve as the official liaison with other Lewis and Clark Trail states, the national Lewis and Clark Trail Heritage Foundation, Inc., and federal departments, bureaus, and committees concerned with the Lewis and Clark Trail, including promotion of the aims and recommendations of the federal Lewis and Clark Trail Commission that existed from 1964 to 1969.*

The Committee shall consist of no more than nine (9) persons who are appointed by the Governor and serve at his pleasure. The voting membership of the Committee shall include:

- 1. The President of the Idaho Chapter of the Lewis and Clark Trail Heritage Foundation;*
- 2. A representative of the Idaho State Historical Society;*
- 3. A representative of the Idaho Department of Parks and Recreation;*
- 4. The Governor or his designee;*
- 5. Five Idaho residents with a demonstrated interest in Lewis and Clark history.*

In addition, each of the following organizations will be invited to appoint one non-voting, ex-officio member:

- Nez Perce Tribal Council*
- Shoshone Bannock Tribal Council*
- Bureau of Land Management*
- National Park Service*
- USDA Forest Service*

The Committee shall elect its own Chairperson and have regular meetings as determined by the majority of the Committee and called by the Chairperson. Members will serve without compensation except for travel expenses. Initial operating funds will be from the sale of Lewis and Clark license plates and commemorative medallion sales.



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 20th day of December in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-42

ESTABLISHMENT OF THE IDAHO ALCOHOL AND DRUG-FREE WORKPLACE POLICY

WHEREAS, the State of Idaho has a vital interest in maintaining a safe, healthy and efficient working environment for its employees, clients and the public; and

WHEREAS, employees impaired by alcohol or other drugs during work hours pose safety and health risks not only to themselves but to others; and

WHEREAS, employees who use illegal drugs, whether on or off duty, are generally less productive, less reliable and prone to greater absenteeism than employees who do not use drugs; and

WHEREAS, the use of illegal drugs by state employees is inconsistent with both the law-abiding behavior expected of all citizens, and the special trust placed in such employees as servants of the public; and

WHEREAS, the use of alcohol or drugs by state employees in certain positions of sensitivity poses a special risk to public safety and the effective enforcement of the law; and

WHEREAS, the use of alcohol or drugs becomes a matter of concern to the State of Idaho when it interferes with job performance, conduct, attendance, or safety of state employees; and

WHEREAS, the State of Idaho, as an employer, has a responsibility to taxpayers to ensure that state functions are performed efficiently and without undue risk to the people of the State; and

WHEREAS, the State of Idaho, as an employer, is also concerned with the well-being of its employees and should encourage the identification and rehabilitation of employees with alcohol or drug problems; and

WHEREAS, the position of Drug Czar was established within the Office of the Governor to advise and assist the Governor in coordinating all drug and substance abuse initiatives in the State of Idaho;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Idaho, do hereby order the Idaho Alcohol and Drug-Free Workplace Policy to become effective immediately for all employees of the State of Idaho:

- 1. The consumption of alcohol on the job is prohibited. Employees may not work if their performance is impaired by the use of alcohol;*
- 2. The unlawful manufacturing, distribution, dispensing, possession, or use of a controlled substance is prohibited, and if occurring on State property or during an employee's hours of work, demands immediate corrective action;*
- 3. Each State agency shall provide employees with information on Idaho's Alcohol and Drug-Free Workplace Policy, as well as information on the State's Employee Assistance Plan;*
- 4. Violations of the Idaho Alcohol and Drug-Free Workplace Policy will be cause for management/supervisor intervention and may result in referral to treatment, including participation in the Employee Assistance Program. It shall be the policy of the State of Idaho to direct its efforts toward rehabilitation whenever reasonable;*
- 5. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Workplace Policy must be consistent with all due process requirements and other constitutional rights of state employees;*
- 6. The privacy rights of employees are important. Any intervention steps taken because of a violation of the Idaho Alcohol and Drug-Free Workplace Policy, including a referral for treatment, counseling or rehabilitation programs, shall include procedures to protect the confidentiality of treatment records as well as the employee's identity;*
- 7. The director of each agency shall report quarterly, the first of January, April, July, and October, to the*

Division of Human Resources and Drug Czar any violations of the Idaho Alcohol and Drug-Free Workplace Policy and the corrective actions taken. "Quarterly" means the report shall be filed the first day of January, April, July, and October. The report shall, to the extent practicable, protect the confidentiality of the employee involved, but shall describe the nature of the employee's position;

8. *The Division of Human Resources in conjunction with the Drug Czar shall annually compile information regarding violations of this policy and the corrective actions taken, and report this information by June 30 to the Governor. Any information so reported shall be reported in a manner to avoid revealing the identity of the employees involved. The Division of Human Resources and the Drug Czar, when they compile this data, shall do so by type of position so as to determine whether there is an alcohol or drug problem in any "safety-sensitive" positions;*
9. *Whenever there is an alcohol or drug problem in a "safety-sensitive" position, it is critical that the problem be addressed aggressively. For the purpose of this policy, a "safety-sensitive" position is one in which:*
 - A. *The duties involve a greater-than-normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; and*
 - B. *Errors in judgment, inattentiveness or diminished coordination, dexterity, or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of the employee or others; and*
 - C. *Employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in subsection (B) could be prevented by a supervisor or another employee;*
10. *In the event the Division of Human Resources finds an alcohol or drug problem in any agency or classification, it shall report that to the Governor and the Drug Czar, and the agency, working in conjunction with the Division of Human Resources and the Governor, shall develop a program to respond to the problem. This program may include alcohol or drug testing for employees in safety-sensitive classifications where such a problem has been documented;*
11. *All state agencies responsible to the Governor are directed, and all other public entities are requested, to assist the Division of Human Resources in discharging its responsibilities under this order;*
12. *Nothing in this order shall be deemed to abrogate any existing policy or directive relating to alcohol or drug use by state employees or to affect any existing or future state employee disciplinary proceeding; and*
13. *Where federal laws or regulations require the State to implement more stringent regulations than those contained in this policy, those federal regulations and procedures supersede and/or augment this policy.*

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



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 22nd Day of December in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-43

**THE GOVERNOR'S ROADLESS RULE IMPLEMENTATION COMMISSION
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2006-34**

WHEREAS, Idaho's 275 inventoried roadless areas comprise approximately 9.3 million acres in 12 national forests across Idaho; and

and WHEREAS, Idaho has more inventoried roadless acres than any other state in the coterminous forty-eight;

WHEREAS, Idaho's inventoried roadless areas not only represent pristine habitat for protected species such as gray wolves and several species of anadromous fish; but also comprise a significant boon to Idaho's economy; and

WHEREAS, roadless areas in Idaho provide excellent recreational opportunities for hunters, fishermen and outdoors enthusiasts, as well as a significant source for drinking and irrigation water throughout the Northwest; and

WHEREAS, Idaho counties, communities, and interested parties were invited to participate, in a process outlined by the Governor, by providing input during the drafting of management recommendations for inventoried roadless areas; and

WHEREAS, county commissioners led the effort to gather public input and present recommendations from local communities and interested parties to the Governor;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order the following:

- 1) *The creation of the Governor's Roadless Rule Advisory Commission (Commission).*
 - A. *The members of the Commission shall be appointed by and serve at the pleasure of the Governor through calendar year 2010. At which time the Commission may be reestablished for another term as the Governor deems necessary.*
 - i. *The Commission shall be composed of 15 members. The Office of the Governor will staff this entity.*
 - ii. *Commission members shall be representative of the interests of the following three categories:*
 1. *Five persons who:*
 - a. *Represent organized labor; or*
 - b. *Represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities; or*
 - c. *Represent energy and mineral development interests; or*
 - d. *Represent the commercial timber industry; or*
 - e. *Hold Federal grazing permits, or other land use permits within the area for which the Commission is organized.*
 2. *Five persons representing:*
 - a. *Nationally recognized environmental organizations; or*
 - b. *Regionally or locally recognized environmental organizations; or*
 - c. *Dispersed recreational activities; or*
 - d. *Archaeological and historical interests; or*
 - e. *Nationally or regionally recognized wild horse and burro interest groups.*

3. *Five persons who:*

- a. *Hold State elected office or their designee; or*
- b. *Hold county or local elected office; or*
- c. *Represent American Indian tribes within or adjacent to the area for which the Commission is organized; or*
- d. *Are school officials or teachers; or*
- e. *Represent the affected public at large.*

iii. *The Chair of the Commission shall be appointed by the Governor from Governor's Office staff or the membership of the Commission.*

2) *The Commission shall:*

- A. *In partnership with the U.S. Forest Service, Department of Agriculture and the Tribes of Idaho ensure the implementation of the Inventoried Roadless Area Management Rule for 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 21st day of December in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-44

**CREATING THE GOVERNOR'S ROADLESS RULE TASK FORCE
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2006-33**

HEREAS, Idaho's 275 inventoried roadless areas comprise approximately 9.3 million acres in 12 national forests across Idaho; and

WHEREAS, Idaho has more inventoried roadless acres than any other state outside of Alaska; and

WHEREAS, Idaho's inventoried roadless areas represent habitat for protected species such as gray wolves and several species of anadromous fish; and

WHEREAS, inventoried roadless areas in Idaho provide excellent recreational opportunities for hunters, fishermen and outdoors enthusiasts, as well as a significant source for drinking and irrigation water throughout the Northwest; and

WHEREAS, tribes, industry groups, environmental organizations, local communities, and Idaho counties were invited to participate by providing input during the period prior to drafting the Governor's petition on management recommendations for inventoried roadless areas; and

WHEREAS, county commissioners led the effort to gather public input and present recommendations from local communities, tribes, industry groups and environmental organizations to the Governor;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order the following:

- 1) *The creation of the Governor's Roadless Rule Task Force (Task Force).*
 - A. *Membership on the Task Force shall be appointed by and serve at the pleasure of the Governor through calendar year 2009 and shall include:*
 - i. *Staff from the Office of the Governor and other State agencies or the Idaho Congressional Delegation as determined by the Governor;*
 - ii. *No less than three (3) commissioners from Idaho counties with inventoried roadless areas representing a geographical diversity across the State.*
 - B. *The Chair of the Task Force shall be appointed by the Governor from the membership of the Task Force and serve at the pleasure of the Governor.*
 - C. *From the membership of the Task Force, the Governor shall appoint a Special Assistant to the Chair to help coordinate the Committee's efforts with the U.S. Forest Service in drafting the federal rule, serving as a liaison between the Task Force and the U.S. Forest Service, and any other duty as directed by the Governor or Chair.*
- 2) *The Task Force shall:*
 - A. *Work with the U.S. Department of Agriculture and U.S. Forest Service in drafting the roadless rule for Idaho.*
 - B. *Ensure that the spirit and letter of the Governor's petition is achieved in the draft and final federal*

rule.

- C. *Review the proposed rule and coordinate State comments in response to the draft federal rule.*



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 21st day of December in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2007-01

INCLUDING GOVERNOR'S OFFICE STAFF UNDER THE REVISED DEFINITION OF "EXECUTIVE OFFICIAL" WITHIN TITLE 67, SECTION 6602 OF THE IDAHO CODE

Whereas, it is important to promote and achieve public confidence in government; and

Whereas, public confidence in government may be achieved by openness, especially concerning those giving financial support to promote or oppose legislation or attempting to influence executive or administrative actions; and

Whereas, the 2006 Idaho Legislature amended portions of title 67, chapter 66 of the Idaho Code to include, among other things, a broader definition of executive official and require lobbyists to report their activities with executive officials; and

Whereas, the Idaho Legislature's amendments to title 67, section 6602 of the Idaho Code under House Bill 707 do not expressly cover employees of executive officials; and

WHEREAS, the Idaho Legislature's amendments to title 67, chapter 66 of the Idaho Code, including the expanded definition of "executive official" became effective July 1, 2006;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order:

That the amended definition of "executive official" under title 67, section 6602 of the Idaho Code, for the purposes of title 67, chapter 66, shall also include staff members employed within the Office of the Governor.



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 8th day of January in the year of our Lord two thousand and seven and of the independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

*C.L. "Butch" Otter
GOVERNOR*

*BEN YSURSA
SECRETARY OF STATE*

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

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.03 - RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0601

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the proposed rulemaking under Docket No. 02-0403-0601 in the August 2, 2006, Idaho Administrative Bulletin, Volume 06-8. The error was a transcription error in Subsection 207.04 in which language that was struck from the codified text was inadvertently left in the rule. Subsection 207.04 is being reprinted here following this Notice as it was adopted by the agency.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 and Section 26-3105(1)(e), Idaho Code. The corrected text of Subsection 207.04 is being reprinted here as adopted by the agency.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the December 6, 2006, Idaho Administrative Bulletin, Volume 06-12, page 20. The original text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Volume 06-8, pages 21 through 28.

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 25th day of January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 02-0403-0601

Subsection 207.04

207. EXTENDED VALIDITY EQUINE CERTIFICATES.

Provided there is a written agreement between the Administrator and the chief livestock sanitary official of the state

of destination, Idaho origin equidae may be moved from Idaho for shows, rides or other equine events and return to Idaho on an extended validity equine certificate under a state system of equine certification acceptable to the Administrator and the state of destination. The Administrator may authorize the movement of equidae into or out of Idaho on extended validity equine certificates under the following conditions: (3-20-04)

04. Certificate Validity. Extended validity equine certificates shall be valid for no longer than six (6) months from the date ~~the ELA sample is collected, if an ELA test is required, or six (6) months from the date~~ of veterinary inspection ~~if no ELA test is required.~~ ~~(3-20-04)~~(9-1-06)T

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

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.20 - RULES GOVERNING BRUCELLOSIS

DOCKET NO. 02-0420-0601

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the proposed rulemaking under Docket No. 02-0420-0601 in the August 2, 2006, Idaho Administrative Bulletin, Volume 06-8. The error was a transcription error in Section 121 in which new language that was being added to the codified rule was inadvertently duplicated within the docket. That portion of Section 121 where the error occurred is being reprinted here following this Notice as it was submitted and adopted by the agency.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 and Section(s) 25-207 and 25-601, Idaho Code.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the December 6, 2006, Idaho Administrative Bulletin, Volume 06-12, page 21. The original text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Volume 06-8, pages 29 through 35.

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 25th day of January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 02-0420-0601

121. TEST ELIGIBLE CATTLE AND DOMESTIC BISON IN AN ERADICATION AREA.

Test eligible cattle and domestic bison in an eradication area are:

~~(5-3-03)~~(9-1-06)T

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

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0601

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the pending rule under Docket No. 12-0110-0601 in the October 4, 2006, Idaho Administrative Bulletin, Volume 06-10. The error occurred because of an inconsistency between the rule docket hard copy submission and the electronically transmitted submission. In the Proposed Rule docket in Section 005, "Incorporation by Reference," a citation made to the Code of Federal Regulations (Regulation Z, 12 CFR 225...) that is being incorporated by reference in this rulemaking was incorrect. The citation should have been to Regulation Z, 12 CFR 226. Section 005 is being reprinted here following this Notice as it was adopted by the agency.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 and Section 26-3105(1)(e), Idaho Code. The corrected text of the pending rule is being reprinted here as adopted by the agency.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the January 3, 2007, Idaho Administrative Bulletin, Volume 07-1, page 51. The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Volume 06-10, pages 156 through 158.

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 12th day of January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 12-0110-0601

005. INCORPORATION BY REFERENCE (RULE 5).

IDAPA 12.01.10, "Rules Pursuant to the Idaho Residential Mortgage Practices Act," incorporates by reference the full text of the following federal laws and regulations as defined in these rules: the Real Estate Settlement Procedures Act, 12 USCA 2601, et seq., as amended to and including January 1, 2007; Regulation X, 24 CFR 3500, et seq., as amended to and including January 1, 2007; the Truth in Lending Act, 15 USCA 1601, et seq., as amended to and including January 1, 2007; and Regulation Z, 12 CFR 226, et seq., as amended to and including January 1, 2007. Documents incorporated by reference may be viewed at the central office of the Department of Finance, as noted in Section 002. ~~(3-30-06)~~(_____)

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

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.05 - FISHING CONTESTS

DOCKET NO. 13-0105-0601

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects a typographical error that occurred during the publication of the proposed rule under Docket No. 13-0105-0601 in the October 4, 2006, Idaho Administrative Bulletin, Volume 06-10. The error was made in a citation to the Administrative Procedure Act Section regarding written interpretations. The citation was made in Section 002, "Written Interpretations". The citation incorrectly referenced Subparagraph 67-5201(19)(b)(vi). The corrected citation is printed here following this notice and has been approved by the legislature.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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: This action is authorized pursuant to Sections 67-5224 and 67-5228, Idaho Code and Sections 36-104(b) and 36-901, Idaho Code.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the January 3, 2007, Idaho Administrative Bulletin, Volume 07-1, page 53. The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Volume 06-10, pages 168 through 170.

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 January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 13-0105-0601

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost at the headquarters office at 600 South Walnut, Boise, Idaho. (11-21-05)T

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - ELIGIBILITY FOR AID FOR THE AGED, BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0605

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the pending rule under Docket No. 16-0305-0605 in the November 1, 2006, Idaho Administrative Bulletin, Volume 06-11. The error occurred because of an incorrect citation to federal regulations. Section 005.12, "Definitions. Long Term Care," will be amended to correct the citation. The Subsection with the correction is being reprinted following this Notice as it was adopted by the agency.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 and Section 26-3105(1)(e), Idaho Code. The corrected text of the pending rule is being reprinted here as adopted by the agency.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the November 1, 2006, Idaho Administrative Bulletin, Volume 06-11, pages 41 through 45. The original text of the proposed rule was published in the July 5, 2006, Idaho Administrative Bulletin, Volume 06-7, pages 59 through 62.

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 12th day of January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 16-0305-0605

Subsection 005.12

005. DEFINITIONS.

These definitions apply to IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)": (7-1-99)

12. Long-Term Care. Long-term care services are services provided to an institutionalized individual as defined in 42 USC 1396p(c)(1)(C). ()

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0602

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects errors that occurred during the publication of the pending rule under Docket No. 16-0310-0602 in the January 3, 2007, Idaho Administrative Bulletin, Volume 07-1. The errors occurred because an amendment was published to the wrong section number and a citation to subsections was not correctly updated. In the pending docket, Section 131.09, "Psychosocial Rehabilitative Services (PSR) - Agency Staff Qualifications," for Licensed Professional Nurse was mistakenly changed and will revert back to the original text. Section 130.09, "Psychosocial Rehabilitative Services (PSR) - Provider Agency Requirements," for Building Standards, Credentialing and Ethics will be amended to correct the citations. The Subsections that have corrections to citations are being reprinted following this Notice as it was adopted by the agency.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 and Sections 56-202(b), and 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 "Medicaid Modernization and Simplification Act," and, HCR 51 and HCR 52 approved by the 2006 Legislature. The Medical Assistance programs are under Title XIX and Title XXI of the Social Security Act. The corrected text of the pending rule is being reprinted here as adopted by the agency.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the January 3, 2007, Idaho Administrative Bulletin, Volume 07-1, pages 154 through 199. The original text of the proposed rule was published in the August 4, 2006, Idaho Administrative Bulletin, Volume 06-8, pages 286 through 466.

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 12th day of January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 16-0310-0602

Subsections 130.06 and 130.09

130. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - PROVIDER AGENCY REQUIREMENTS.

Each agency that enters into a provider agreement with the Department for the provision of PSR services must meet the following requirements: (7-1-06)T

06. Supervision. The agency must provide staff with adequate supervision to insure that the tasks on a participant's individualized treatment plan can be implemented effectively in order for the individualized treatment plan objectives to be achieved. Individuals in Subsection 131.08 through 131.12 of these rules must be supervised by individuals in Subsection 131.01 through 131.07 of these rules. (7-1-06)T

09. Building Standards, Credentialing and Ethics. PSR Agencies must follow the rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections ~~715~~ 712 and 714. ~~(7-1-06)T~~(7-1-06)T

Subsection 131.09

131. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - AGENCY STAFF QUALIFICATIONS.

All agency staff delivering PSR services must meet at least one (1) of the following qualifications: (7-1-06)T

09. Licensed Professional Nurse (RN). A licensed professional nurse or RN must be licensed in accordance with Title 54, Chapter 14, Idaho Code. (7-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0701

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2007.

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 Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code and Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations; Senate Bill No. 1339 (2006); and State Plan Amendment 06-005.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," currently contains general language requiring criminal history background checks for providers of Medicaid services who provide direct care or services to children or vulnerable adults. Effective January 1, 2007, this general language will be removed and references will be added to specific Department program rules to assure that all providers who provide Home and Community Based Services to vulnerable adults are required to complete a criminal history background check.

Another change is being made. Senate Bill No. 1339, passed during the 2006 Legislative session, removed the requirement for a physician's order for Personal Care Services. An amendment to Idaho's state plan removing this requirement was recently approved by the Centers for Medicare and Medicaid Services. This rule change implements the law and state plan changes.

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

For the protection of public health, safety, and welfare and to comply with state law. This rulemaking is initiated to comply with the provisions of Senate Bill No. 1339, passed by the 2006 Legislature and amendments to the Idaho Medicaid State Plan.

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 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 the temporary rule, contact LaDonna Larson, Division of Medicaid at (208) 287-1162.

DATED this 5th day of January, 2007.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0310-0701

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History Check. Agencies must verify that individuals working in the area listed in Section 009.04 of these rules whom are employed or whom they contract have complied with the provisions in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (7-1-06)T

02. Availability to Work or Provide Service. (1-1-07)T

a. The employer, at its discretion, may allow an individual to provide care or services on a provisional basis once the application for a criminal history and background check is completed and notarized and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant record. (1-1-07)T

b. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is completed and a clearance issued by the Department. (1-1-07)T

03. Additional Criminal Convictions. Once an individual has received a criminal history clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (7-1-06)T

04. Providers Subject to Criminal History and Background Check Requirements. The following providers are required to have a criminal history and background check: (7-1-06)T

a. Adult Day Care Providers. The criminal history and background check requirements applicable to providers of adult day care as provided in Sections 329 and 705 of these rules. ~~(7-1-06)T~~(1-1-07)T

b. Adult Residential Care Providers. The criminal history and background check requirements applicable to adult residential care providers as provided in Section 329 of these rules. (1-1-07)T

c. Attendant Care Providers. The criminal history and background check requirements applicable to attendant care providers as provided in Section 329 of these rules. (1-1-07)T

d. Behavior Consultation or Crisis Management Providers. The criminal history and background check requirements applicable to behavior consultation or crisis management providers as provided in Sections 329 and 705 of these rules. (1-1-07)T

e. Certified Family Home Providers and All Adults in the Home. The criminal history and background check requirements applicable to certified family homes are found in ~~Subsections 305, 329 and 705 of~~ these rules, and as provided in IDAPA 16.03.19, "Rules Governing Certified Family Homes." ~~(7-1-06)T~~(1-1-07)T

f. Chore Services Providers. The criminal history and background check requirements applicable to chore services providers as provided in Sections 329 and 705 of these rules. (1-1-07)T

g. Companion Services Providers. The criminal history and background check requirements applicable to companion services providers as provided in Section 329 of these rules. (1-1-07)T

h. Day Rehabilitation Providers. The criminal history and background check requirements applicable to day rehabilitation providers as provided in Section 329 of these rules. (1-1-07)T

ei. Developmental Disabilities Agencies (DDA). The criminal history and background check for DDA

and staff as provided in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies," Section 009. (7-1-06)T

j. Homemaker Services Providers. The criminal history and background check requirements applicable to homemaker services providers as provided in Section 329 of these rules. (1-1-07)T

k. Mental Health Clinics. The criminal history and background check requirements applicable to mental health clinic staff as provided in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 714. (7-1-06)T

el. Personal Assistance Agencies Acting As Fiscal Intermediaries. The criminal history and background check requirements applicable to the staff of personal assistance agencies acting as fiscal intermediaries as provided in Subsection 329.02 of these rules. (7-1-06)T

fm. Personal Care Providers. The criminal history and background check requirements applicable to personal care providers as provided in Subsection 305.06 of these rules. (7-1-06)T

n. Psychiatric Consultation Providers. The criminal history and background check requirements applicable to psychiatric consultation providers as provided in Section 329 of these rules. (1-1-07)T

so. Psychosocial Rehabilitation Agencies. The criminal history and background check requirements applicable to psychosocial rehabilitation agency employees as provided in Subsection 130.02 of these rules. (7-1-06)T

pd. Residential Habilitation Providers. The criminal history and background check requirements applicable to residential habilitation providers as provided in Sections 329 and 705 of these rules, and IDAPA 16.04.17 "Rules Governing Residential Habilitation Agencies," Sections 202 and 301. ~~(7-1-06)T~~(1-1-07)T

q. Respite Care Providers. The criminal history and background check requirements applicable to respite care providers as provided in Sections 329 and 705 of these rules. (1-1-07)T

ir. Service Coordinators And Paraprofessionals. The criminal history and background check requirements applicable to service coordinators and paraprofessionals working for an agency as provided in Section 729 of these rules. (7-1-06)T

s. Supported Employment Providers. The criminal history and background check requirements applicable to supported employment providers as provided in Sections 329 and 705 of these rules. (1-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

302. PERSONAL CARE SERVICES - ELIGIBILITY.

01. Financial Eligibility. The participant must be financially eligible for medical assistance under IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," or 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)." (7-1-06)T

02. Other Eligibility Requirements. Regional Medicaid Services (RMS) will prior authorize payment for the amount and duration of all services when all of the following conditions are met: (7-1-06)T

a. The RMS finds that the participant is capable of being maintained safely and effectively in his own home or personal residence using PCS. (7-1-06)T

b. The participant is an adult for whom a Uniform Assessment Instrument (UAI) has been completed. A UAI is not to be completed for a child participant; (7-1-06)T

- c. The RMS reviews the documentation for medical necessity; and ~~(7-1-06)F~~(1-1-07)T
- d. The participant has a plan of care; and ~~(7-1-06)F~~(1-1-07)T
- e. *Services are ordered by a physician or authorized provider.* ~~(7-1-06)F~~

03. State Plan Option. A participant who receives medical assistance is eligible for PCS under the State Medicaid Plan option if the Department finds he requires PCS due to a medical condition that impairs his physical or mental function or independence. (7-1-06)T

04. Annual Eligibility Redetermination. The participant's eligibility for PCS must be redetermined at least annually under Subsections 302.01. through 302.03 of these rules. (7-1-06)T

a. The annual financial eligibility redetermination must be conducted under IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," or 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)." RMS must make the medical eligibility redetermination. The redetermination can be completed more often than once each year at the request of the participant, the Self-Reliance Specialist, the Personal Assistance Agency, the personal assistant, the supervising RN, the QMRP, or the physician *or authorized provider.* ~~(7-1-06)F~~(1-1-07)T

- b. The medical redetermination must assess the following factors: (7-1-06)T
 - i. The participant's continued need for PCS; (7-1-06)T
 - ii. Discharge from PCS; and (7-1-06)T
 - iii. Referral of the participant from PCS to a nursing facility. (7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

304. PERSONAL CARE SERVICES - PROCEDURAL REQUIREMENTS.

01. Service Delivery Based on Plan of Care or NSA. All PCS services are provided based on a written plan of care or a negotiated service agreement (NSA). The requirements for the NSA for participants in Residential Care or Assisted Living Facilities are described in IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." The requirements for the NSA for participants in Certified Family Homes are described in IDAPA 16.03.19, "Rules Governing Certified Family Homes." The Personal Assistance Agency and the participant who lives in his own home are responsible to prepare the plan of care. (7-1-06)T

- a. The plan of care for participants who live in their own homes is based on: (7-1-06)T
 - i. The physician's or authorized provider's information if applicable; ~~(7-1-06)F~~(1-1-07)T
 - ii. The results of the UAI for adults, the Personal Assistance Agency's assessment for children and, if applicable, the QMRP's assessment and observations of the participant; and (7-1-06)T
 - iii. Information obtained from the participant. (7-1-06)T
- b. The plan of care must include all aspects of medical and non-medical care that the provider needs to perform, including the amount, type and frequency of necessary services. (7-1-06)T
- c. The plan of care must be revised and updated based upon treatment results or a change(s) in the participant's needs, or both, but at least annually. (7-1-06)T

02. Service Supervision. The delivery of PCS may be overseen by a licensed professional nurse (RN) or Qualified Mental Retardation Provider (QMRP). The RMS must identify the need for supervision. (7-1-06)T

a. Oversight must include all of the following: (7-1-06)T

i. Assistance in the development of the written plan of care; (7-1-06)T

ii. Review of the treatment given by the personal assistant through a review of the participant's PCS record as maintained by the provider; (7-1-06)T

iii. Reevaluation of the plan of care as necessary; and (7-1-06)T

iv. Immediate notification of the guardian, emergency contact, or family members of any significant changes in the participant's physical condition or response to the services delivered. (7-1-06)T

b. All participants who are developmentally disabled, other than those with only a physical disability as determined by the RMS, may receive oversight by a QMRP as defined in 42 CFR 483.430. Oversight must include: (7-1-06)T

i. Assistance in the development of the plan of care for those aspects of active treatment which are provided in the participant's personal residence by the personal assistant; (7-1-06)T

ii. Review of the care or training programs given by the personal assistant through a review of the participant's PCS record as maintained by the provider and through on-site interviews with the participant; (7-1-06)T

iii. Reevaluation of the plan of care as necessary, but at least annually; and (7-1-06)T

iv. An on-site visit to the participant to evaluate any change of condition when requested by the personal assistant, the Personal Assistance Agency, the nurse supervisor, the service coordinator or the participant. (7-1-06)T

03. PCS Record Requirements for a Participant in His Own Home. The PCS records must be maintained on all participants who receive PCS in their own homes. (7-1-06)T

a. Written Requirements. The PCS provider must maintain written documentation of every visit made to the participant's home and must record the following minimum information: (7-1-06)T

i. Date and time of visit; (7-1-06)T

ii. Length of visit; (7-1-06)T

iii. Services provided during the visit; and (7-1-06)T

iv. Documentation of any changes noted in the participant's condition or any deviations from the plan of care. (7-1-06)T

b. Participant's Signature. The participant must sign the record of service delivery verifying that the services were delivered. The RMS may waive this requirement if it determines the participant is not able to verify the service delivery. (7-1-06)T

c. A copy of the information required in Subsection 304.03 of these rules must be maintained in the participant's home unless the RMS authorizes the information to be kept elsewhere. Failure to maintain this information may result in recovery of funds paid for undocumented services. (7-1-06)T

d. Telephone Tracking System. Agencies may employ a software system that allows personal assistants to register their start and stop times and a list of services by placing a telephone call to the agency system from the participant's home. This system will not take the place of documentation requirements of Subsection 304.03

of these rules. (7-1-06)T

e. Participant in a Residential or Assisted Living Facility. The PCS record requirements for participants in Residential Care or Assisted Living Facilities are described in IDAPA 16.03.22. "Residential Care or Assisted Living Facilities in Idaho." (7-1-06)T

f. Participant in a Certified Family Home. The PCs record requirements for participants in Certified Family Homes are described in IDAPA 16.03.19, "Rules Governing Certified Family Homes." (7-1-06)T

04. Provider Responsibility for Notification. The Personal Assistance Agency is responsible to notify the RMS and physician or authorized provider when any significant changes in the participant's condition are noted during service delivery. This notification must be documented in the Personal Assistance Agency record. (7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

329. AGED OR DISABLED WAIVER SERVICES - PROVIDER QUALIFICATIONS AND DUTIES. Each provider must have a signed provider agreement with the Department for each of the services it provides. (7-1-06)T

01. Employment Status. Unless otherwise specified by the Department, each individual service provider must be an employee of record or fact of an agency. The Department may enter into provider agreements with individuals in situations in which no agency exists, or no fiscal intermediary is willing to provide services. Such agreements will be reviewed annually to verify whether coverage by an agency or fiscal intermediary is still not available. (10-1-06)T

02. Personal Assistance Agency That Provides Fiscal Intermediary Services. A personal assistance agency that focuses on fostering participant independence and personal control of services delivered. The core tasks are: (7-1-06)T

a. To directly assure compliance with legal requirements related to employment of waiver service providers; (7-1-06)T

b. To offer supportive services to enable participants or families consumers to perform the required employer tasks themselves; (7-1-06)T

c. To bill the Medicaid program for services approved and authorized by the Department; (7-1-06)T

d. To collect any participant participation due; (7-1-06)T

e. To pay personal assistants and other waiver service providers for service; (7-1-06)T

f. To perform all necessary withholding as required by state and federal labor and tax laws, rules and regulations; (7-1-06)T

g. To offer a full range of services and perform all services contained in a written agreement between the participant and the provider; (7-1-06)T

h. Make referrals for PCS eligible participant for service coordination when a need for such services is identified; and (7-1-06)T

i. Obtain such criminal background checks and health screens on new and existing employees of record and fact as required. (7-1-06)T

03. Provider Qualifications. All providers of homemaker, respite care, adult day health, transportation, chore companion, attendant adult residential care, home delivered meals, and behavior consultants must meet, either by formal training or demonstrated competency, the training requirements contained in the provider training matrix and the standards for direct care staff and allowable tasks or activities in the Department's approved Aged and Disabled waiver as approved by CMS. (7-1-06)T

a. A waiver provider can not be a relative of any participant to whom the provider is supplying services. (7-1-06)T

b. For the purposes of Section 329 of these rules, a relative is defined as a spouse or parent of a minor child. (7-1-06)T

c. Individuals who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," including: (1-1-07)T

i. Companion services; (1-1-07)T

ii. Chore services; and (1-1-07)T

iii. Respite care services. (1-1-07)T

04. Specialized Medical Equipment Provider Qualifications. Providers of specialized medical equipment and supplies must be enrolled in the Medicaid program as participating medical vendor providers. (7-1-06)T

05. Nursing Service Provider Qualifications. Nursing Service Providers must be licensed as an R.N. or L.P.N. in Idaho or be practicing on a federal reservation and be licensed in another state. (7-1-06)T

06. Psychiatric Consultation Provider Qualifications. Psychiatric Consultation Providers must have: (7-1-06)T

a. A master's degree in a behavioral science; (7-1-06)T

b. Be licensed in accordance with state law and regulations; or (7-1-06)T

c. ~~Have a~~ A bachelor's degree and work for an agency with direct supervision from a licensed or Ph.D. psychologist and have one (1) year's experience in treating severe behavior problems. ~~(7-1-06)T~~(1-1-07)T

d. Psychiatric consultation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (1-1-07)T

07. Service Coordination. Service coordinators and service coordination agencies must meet the requirements specified in Section 729 of these rules unless specifically modified by another section of these rules. (7-1-06)T

08. Consultation Services. Services must be provided through a Personal Assistance Agency by a person who has demonstrated skills in training participants/family members in hiring, firing, training, and supervising their own care providers. (7-1-06)T

09. Adult Residential Care Providers. Adult Residential Care providers will meet all applicable state laws and regulations. In addition, the provider must ensure that adequate staff are ~~is~~ provided to meet the needs of the participants accepted for admission. Adult residential care providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.03.19, "Rules Governing Certified Family Homes," and IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." ~~(7-1-06)T~~(1-1-07)T

- 10. Home Delivered Meals.** Providers must be a public agency or private business and must be capable of: (7-1-06)T
- a.** Supervising the direct service; (7-1-06)T
 - b.** Providing assurance that each meal meets one-third (1/3) of the recommended daily allowance, as defined by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; (7-1-06)T
 - c.** Delivering the meals in accordance with the plan for care, in a sanitary manner and at the correct temperature for the specific type of food; (7-1-06)T
 - d.** Maintaining documentation that the meals served are made from the highest USDA grade for each specific food served; and (7-1-06)T
 - e.** Being inspected and licensed as a food establishment by the district health department. (7-1-06)T
- 11. Personal Emergency Response Systems.** Providers must demonstrate that the devices installed in waiver participant's homes meet Federal Communications Standards, Underwriter's Laboratory Standards, or equivalent standards. (7-1-06)T
- 12. Adult Day Care.** Facilities that provide adult day care must be maintained in safe and sanitary manner. (10-1-06)T
- a.** Facilities will provide the necessary space and staff to meet the needs of the participants accepted by the provider. Supervision must be provided by the facility as necessary, to assure the safety and comfort of participants served. (7-1-06)T
 - b.** Providers who accept participants into their homes for services must maintain the homes in a safe and sanitary manner. Supervision must be provided by the provider as necessary to assure the safety and comfort of participants served. (10-1-06)T
 - c.** Adult day care providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (1-1-07)T
- 13. Assistive Technology.** All items must meet applicable standards of manufacture, design and installation. The equipment must be the most cost effective to meet the participant's need. (7-1-06)T
- 14. Assisted Transportation Services.** See Subsection 329.03 of this rule for provider qualifications. (7-1-06)T
- 15. Attendant Care.** See Subsection 329.03 of this rule for provider qualifications. Attendant care providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." ~~(7-1-06)T~~(1-1-07)T
- 16. Homemaker Services.** The homemaker must be an employee of record or fact of an agency. Homemaker service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." ~~(7-1-06)T~~(1-1-07)T
- 17. Home Modifications.** All services must be provided in accordance with applicable state or local building codes and meet state or local building, plumbing, and electrical requirements for certification. (7-1-06)T
- 18. Residential Habilitation Provider Qualifications.** Residential habilitation services must be provided by an agency that is capable of supervising the direct services provided. Individuals who provide residential

habilitation services in their own home must be certified by the Department as a certified family home and must be affiliated with a residential habilitation agency. The residential habilitation agency provides oversight, training, and quality assurance to the certified family home provider. Individuals who provide residential habilitation services in the home of the participant (supported living), must be employed by a residential habilitation agency. Providers of residential habilitation services must meet the following requirements: (10-1-06)T

- a. Direct service staff must meet the following minimum qualifications: (10-1-06)T
 - i. Be at least eighteen (18) years of age; (10-1-06)T
 - ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to a plan of care; (10-1-06)T
 - iii. Have current CPR and First Aid certifications; (10-1-06)T
 - iv. Be free from communicable diseases; (10-1-06)T
 - v. Each staff person assisting with participant medications must successfully complete and follow the “Assistance with Medications” course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. (10-1-06)T
 - vi. Residential habilitation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, “Rules Governing Mandatory Criminal History Checks;” ~~(10-1-06)T~~(1-1-07)T
 - vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. Direct service staff must also have taken a traumatic brain injury training course approved by the Department. (10-1-06)T
- b. The provider agency is responsible for providing direct service staff with a traumatic brain injury training course approved by the Department, and training specific to the needs of the participant. Skill training may be provided by a Program Coordinator who has demonstrated experience in writing skill training programs, if no agency is available in their geographic area as outlined in Subsection 329.18.c. of this rule. (10-1-06)T
- c. Residential habilitation providers who are unable to be employed by an agency because one is not available in their geographic area, must receive program development, implementation and oversight of service delivery services by a program coordinator who has a valid service coordination provider agreement with the Department and who has taken a traumatic brain injury training course approved by the Department. (10-1-06)T
- d. Prior to delivering services to a participant, direct service staff must complete an orientation program. The orientation program must include the following subjects: (10-1-06)T
 - i. Purpose and philosophy of services; (7-1-06)T
 - ii. Service rules; (7-1-06)T
 - iii. Policies and procedures; (7-1-06)T
 - iv. Proper conduct in relating to waiver participants; (7-1-06)T
 - v. Handling of confidential and emergency situations that involve the waiver participant; (7-1-06)T
 - vi. Participant rights; (7-1-06)T
 - vii. Methods of supervising participants; (7-1-06)T
 - viii. Working with individuals with traumatic brain injuries; and (7-1-06)T

- ix. Training specific to the needs of the participant. (7-1-06)T
- e. Additional training requirements must be completed within six (6) months of employment or affiliation with the residential habilitation agency and include at a minimum: (10-1-06)T
 - i. Instructional techniques: Methodologies for training in a systematic and effective manner; (10-1-06)T
 - ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (10-1-06)T
 - iii. Feeding; (10-1-06)T
 - iv. Communication; (10-1-06)T
 - v. Mobility; (10-1-06)T
 - vi. Activities of daily living; (10-1-06)T
 - vii. Body mechanics and lifting techniques; (10-1-06)T
 - viii. Housekeeping techniques; and (10-1-06)T
 - ix. Maintenance of a clean, safe, and healthy environment. (10-1-06)T
- f. The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed; and (10-1-06)T
- g. When residential habilitation services are provided in the provider's home, the provider must meet the requirements in IDAPA 16.03.19, "Rules Governing Certified Family Homes." Non-compliance with the certification process is cause for termination of the provider agreement or contract. (10-1-06)T

19. Day Rehabilitation Provider Qualifications. Providers of day rehabilitation services must have a minimum of two (2) years of experience working directly with persons with a traumatic brain injury, must provide documentation of standard licensing specific to their discipline, and must have taken a traumatic brain injury course approved by the Department. Day rehabilitation providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." ~~(10-1-06)T~~(1-1-07)T

20. Supported Employment Service Providers. Supported employment services must be provided by an agency capable of supervising the direct service and be accredited by the Commission on Accreditation of Rehabilitation Facilities; or other comparable standards; or meet State requirements to be a State-approved provider, and have taken a traumatic brain injury training course approved by the Department. Supported employment service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." ~~(10-1-06)T~~(1-1-07)T

21. Behavior Consultation or Crisis Management Service Providers. Behavior consultation or crisis management providers must meet the following: (10-1-06)T

- a. Have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, or a closely related course of study; (10-1-06)T
- b. Be a licensed pharmacist; or (10-1-06)T
- c. Work for a provider agency capable of supervising the direct service or work under the direct supervision of a licensed psychologist or Ph.D., with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (10-1-06)T

- d. Take a traumatic brain injury training course approved by the Department. (10-1-06)T
- e. Emergency back-up providers must also meet the minimum provider qualifications under residential habilitation services. (10-1-06)T
- f. Behavior consultation or crisis management service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (1-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

705. DD/ISSH WAIVER SERVICES - PROVIDER QUALIFICATIONS AND DUTIES.

All providers of waiver services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (7-1-06)T

01. Residential Habilitation. Residential habilitation services must be provided by an agency that is certified by the Department as a Residential Habilitation Agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies," and is capable of supervising the direct services provided. Individuals who provide residential habilitation services in their own home must be certified by the Department as a certified family home and must be affiliated with a Residential Habilitation Agency. The Residential Habilitation Agency provides oversight, training, and quality assurance to the certified family home provider. Individuals who provide residential habilitation services in the home of the participant (supported living), must be employed by a Residential Habilitation Agency. Providers of residential habilitation services must meet the following requirements: (7-1-06)T

- a. Direct service staff must meet the following minimum qualifications: (7-1-06)T
 - i. Be at least eighteen (18) years of age; (7-1-06)T
 - ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to an plan of service; (7-1-06)T
 - iii. Have current CPR and First Aid certifications; (7-1-06)T
 - iv. Be free from communicable diseases; (7-1-06)T
 - v. Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. Staff previously trained on assistance with medications by a licensed nurse but who have not completed this course must meet this requirement by July 1, 2007. (7-1-06)T
 - vi. Residential habilitation service providers who provide direct care or services must satisfactorily complete a criminal background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." ~~(7-1-06)T~~(1-1-07)T
 - vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. (7-1-06)T
- b. All skill training for direct service staff must be provided by a Qualified Mental Retardation Professional (QMRP) who has demonstrated experience in writing skill training programs. (7-1-06)T
- c. Prior to delivering services to a participant, direct service staff must complete an orientation program. The orientation program must include the following subjects: (7-1-06)T

- i. Purpose and philosophy of services; (7-1-06)T
 - ii. Service rules; (7-1-06)T
 - iii. Policies and procedures; (7-1-06)T
 - iv. Proper conduct in relating to waiver participants; (7-1-06)T
 - v. Handling of confidential and emergency situations that involve the waiver participant; (7-1-06)T
 - vi. Participant rights; (7-1-06)T
 - vii. Methods of supervising participants; (7-1-06)T
 - viii. Working with individuals with developmental disabilities; and (7-1-06)T
 - ix. Training specific to the needs of the participant. (7-1-06)T
- d.** Additional training requirements must be completed within six (6) months of employment or affiliation with the residential habilitation agency and include at a minimum: (7-1-06)T
- i. Instructional techniques: Methodologies for training in a systematic and effective manner; (7-1-06)T
 - ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (7-1-06)T
 - iii. Feeding; (7-1-06)T
 - iv. Communication; (7-1-06)T
 - v. Mobility; (7-1-06)T
 - vi. Activities of daily living; (7-1-06)T
 - vii. Body mechanics and lifting techniques; (7-1-06)T
 - viii. Housekeeping techniques; and (7-1-06)T
 - ix. Maintenance of a clean, safe, and healthy environment. (7-1-06)T
- e.** The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed. (7-1-06)T
- f.** When residential habilitation services are provided in the provider's home, the provider's home must meet the requirements in IDAPA 16.03.19, "Rules Governing Certified Family Homes." Non-compliance with the certification process is cause for termination of the provider's provider agreement. (7-1-06)T
- 02. Chore Services.** Providers of chore services must meet the following minimum qualifications: (7-1-06)T
- a.** Be skilled in the type of service to be provided; and (7-1-06)T
 - b.** Demonstrate the ability to provide services according to a plan of service. (7-1-06)T
- c.** Chore service providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal

History Checks.” (1-1-07)T

- 03. Respite.** Providers of respite care services must meet the following minimum qualifications: (7-1-06)T
- a.** Meet the qualifications prescribed for the type of services to be rendered or must be an individual selected by the waiver participant, the family or his guardian; (7-1-06)T
 - b.** Have received care giving instructions in the needs of the person who will be provided the service; (7-1-06)T
 - c.** Demonstrate the ability to provide services according to an plan of service; (7-1-06)T
 - d.** Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; (7-1-06)T
 - e.** Be willing to accept training and supervision by a provider agency or the primary caregiver of services; and (7-1-06)T
 - f.** Be free of communicable diseases. (7-1-06)T
 - g.** Respite care service providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, “Rules Governing Mandatory Criminal History Checks.” (1-1-07)T

04. Supported Employment. Supported Employment services must be provided by an agency capable of supervising the direct service and be accredited by the Commission on Accreditation of Rehabilitation Facilities; or other comparable standards; or meet State requirements to be a State approved provider. Supported employment service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, “Rules Governing Mandatory Criminal History Checks.” (7-1-06)T(1-1-07)T

- 05. Transportation.** Providers of transportation services must: (7-1-06)T
- a.** Possess a valid driver's license; and (7-1-06)T
 - b.** Possess valid vehicle insurance. (7-1-06)T
- 06. Environmental Accessibility Adaptations.** Environmental accessibility adaptations services must: (7-1-06)T
- a.** Be done under a permit, if required; and (7-1-06)T
 - b.** Demonstrate that all modifications, improvements, or repairs are made in accordance with local and state housing and building codes. (7-1-06)T
- 07. Specialized Equipment and Supplies.** Specialized Equipment and Supplies purchased under this service must: (7-1-06)T
- a.** Meet Underwriter's Laboratory, FDA, or Federal Communication Commission standards where applicable; and (7-1-06)T
 - b.** Be obtained or provided by authorized dealers of the specific product where applicable. This may include medical supply businesses or organizations that specialize in the design of the equipment. (7-1-06)T
- 08. Personal Emergency Response System.** Personal Emergency Response Systems (PERS) must demonstrate that the devices installed in waiver participants' homes meet Federal Communications Standards or

Underwriter's Laboratory standards or equivalent standards. (7-1-06)T

09. Home Delivered Meals. Services of Home Delivered Meals under this section may only be provided by an agency capable of supervising the direct service and must: (7-1-06)T

a. Provide assurances that each meal meets one third (1/3) of the Recommended Dietary Allowance as defined by the Food and Nutrition Board of National Research Council or meet physician ordered individualized therapeutic diet requirement; (7-1-06)T

b. Must provide assurances that the meals are delivered on time and demonstrate the ability to deliver meals at a minimum of three (3) days per week; (7-1-06)T

c. Maintain documentation reflecting the meals delivered are nutritionally balanced and made from the highest U.S.D.A. Grade for each specific food served; (7-1-06)T

d. Provide documentation of current driver's license for each driver; and (7-1-06)T

e. Must be inspected and licensed as a food establishment by the District Health Department. (7-1-06)T

10. Skilled Nursing. Nursing service providers must provide documentation of current Idaho licensure as a licensed professional nurse (RN) or licensed practical nurse (LPN) in good standing. (7-1-06)T

11. Behavior Consultation or Crisis Management. Behavior Consultation or Crisis Management Providers must meet the following: (7-1-06)T

a. Work for a provider agency capable of supervising the direct service or work under the direct supervision of a licensed psychologist or Ph.D. in Special Education, with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (7-1-06)T

b. Must have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, special education or a closely related course of study; or (7-1-06)T

c. Be a licensed pharmacist; or (7-1-06)T

d. Be a Qualified Mental Retardation Professional (QMRP). (7-1-06)T

e. Emergency back-up providers must meet the minimum residential habilitation provider qualifications described under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (7-1-06)T

f. Behavior consultation or crisis management providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (1-1-07)T

12. Adult Day Care. Providers of adult day care services must be employed by or be affiliated with the residential habilitation agency that provides program coordination for the participant if the service is provided in a certified family home other than the participant's primary residence, be capable of supervising direct services, provide services as identified on the plan of service, provide care and supervision identified on the participant's residential habilitation plan, and must meet the following minimum qualifications: (7-1-06)T

a. Demonstrate the ability to communicate and deal effectively, assertively, and cooperatively with a variety of people; (7-1-06)T

b. Be a high school graduate, or have a GED or demonstrate the ability to provide services according to the plan of service; (7-1-06)T

c. Be free from communicable disease; (7-1-06)T

- d.** Adult day care providers who provide direct care or services must satisfactorily complete a criminal history check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks"; ~~(7-1-06)T~~(1-1-07)T
- e.** Demonstrate knowledge of infection control methods; and (7-1-06)T
- f.** Agree to practice confidentiality in handling situations that involve waiver participants. (7-1-06)T
- 13. Service Supervision.** The plan of service which includes all waiver services is monitored by the plan monitor or targeted service coordinator. (7-1-06)T

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

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.28 - GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS

DOCKET NO. 18-0128-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the pending rule under Docket No. 18-0128-0601 in the January 3, 2007, Idaho Administrative Bulletin, Volume 07-1. After the close of the public comment period, the agency amended the pending rule after considering comments to the proposed rule. In the publication of the pending rule, Subsection 026.02 was mistakenly deleted rather than Subsection 026.01.a. It was the intention of the agency to strike Subsection 026.01.a. and not Subsection 026.02 as was published in the Administrative Bulletin. Section 026 of this chapter is being republished here following this notice and has been approved by the legislature.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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: This action is authorized pursuant to Sections 67-5224 and 67-5228, Idaho Code and Section 41-211, Idaho Code, and Chapter 41, Title 41, Idaho Code.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the January 3, 2007, Idaho Administrative Bulletin, Volume 07-1, pages 266 through 268. The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Volume 06-10, pages 340 through 344.

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 January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 18-0128-0601

Section 026 - Entire Section

026. TRUST FUND RESERVES.

01. Reserve Requirements.

(7-1-06)T

~~a.~~ *The trust fund of a self-funded plan in existence as of July 1, 2006 has three (3) years from July 1, 2006 to fully fund all actuarially required reserves. The trust fund must show progress towards coming in compliance with this requirement by a minimum twenty percent (20%) increase in funded reserves at the end of the first year from the effective date and a minimum of forty percent (40%) increase by the end of the second year from the effective date. At the end of the third year of the effective date and thereafter, the plan must continuously maintain reserves sufficient to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any.*

(7-1-06)T

~~b.~~ The trust fund of a plan not in existence as of July 1, 2006, must continuously maintain reserves, pursuant to Section 41-4110, Idaho Code, from inception of the plan, that are sufficient to fully fund payment of all benefits at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any.

(7-1-06)T

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits shall be in an amount not less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual as adopted by the director, unless it can be proven to the satisfaction of the director that a lower reserve can be actuarially justified.

(7-1-06)T

03. Certification by Actuary. Reserves must be certified annually by an actuary who meets the requirements of Section 41-4105(2)(d), Idaho Code, and such certification must be accompanied by a statement describing bases used in reserve determination. The certification shall be in a form acceptable to the director.

(7-1-06)T

04. Insolvent Condition.

(7-1-06)T

a. For a self-funded plan in existence as of July 1, 2006, three (3) years after the effective date of Chapter 41, if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves.

(7-1-06)T

b. For plans formed after July 1, 2006, if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves.

(7-1-06)T

05. Insolvency. Insolvency means that the plan is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, including required reserves.

(7-1-06)T

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

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.77 - ACTUARIAL OPINION AND MEMORANDUM RULE

DOCKET NO. 18-0177-0601

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the proposed rule under Docket No. 18-0177-0601 in the August 2, 2006, Idaho Administrative Bulletin, Volume 06-8. The error was inadvertently missed and was not corrected in the pending rule as intended. During the publication of the proposed rule Section 021 was amended at Subsection 05.c. This Subsection was struck out and removed from the current codified rule as part of the amendment to this chapter. Subparagraphs 05.c.i. and ii. should have been struck out and removed from the rule in this docket as well, as was the intention of the agency. These Subparagraphs are being removed in this correction notice and are being reprinted here following this notice. This correction has been submitted and approved by the germane committees of the legislature as part of the rules review process.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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: This action is authorized pursuant to Sections 67-5224 and 67-5228, Idaho Code and Section 41-211, Idaho Code. The corrected text of the pending rule is being reprinted here as adopted by the agency.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the November 1, 2006, Idaho Administrative Bulletin, Volume 06-11, page 120. The original text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Volume 06-8, pages 44 through 65.

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 January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 18-0177-0601

Subsection 021.05.c.i. and 021.05.c.ii.

00521. GENERAL REQUIREMENTS.

05. Liabilities to Be Covered. (7-1-97)

~~e. For years ending prior to December 31, 1998, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following. (7-1-97)~~

~~i. December 31, 1996: The additional reserve divided by three (3). (7-1-97)~~

~~ii. December 31, 1997: Two (2) times the additional reserve divided by three (3). (7-1-97)~~

OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.21 - RULES GOVERNING SPECIAL PERMIT FEES

DOCKET NO. 39-0321-0601 (FEE RULE)

NOTICE OF RULEMAKING - CORRECTION TO PENDING FEE RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the proposed rule under Docket No. 39-0321-0601 in the September 6, 2006, Idaho Administrative Bulletin, Volume 06-9. The typographical error was made in Subsection 200.04.b. during the publication of the proposed rule and was not corrected in the pending rule. In Section 200, "Payment of Overlegal Permit Fees," Subsection 04.b., the fee is being changed from \$18 to \$33. In the proposed rule docket the number "23" was incorrectly inserted after "...thirty-three dollars (\$23)..." rather than the number "33". Subsection 200.04.b. is being reprinted here following this Notice as it was adopted by the agency.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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: In compliance with Sections 67-5224 and 67-5228, Idaho Code, notice is hereby given that this agency has corrected a pending rule. The action is authorized pursuant to Section(s) 40-312, 49-201, and 49-1004, Idaho Code.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the January 3, 2007, Idaho Administrative Bulletin, Volume 07-1, pages 284 and 285. The original text of the proposed rule was published in the September 6, 2006, Idaho Administrative Bulletin, Volume 06-9, pages 211 through 214.

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 22th day of January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF THE PENDING RULE DOCKET 39-0321-0601

Subsection 200.04.b.

200. PAYMENT OF ~~SPECIAL~~ OVERLEGAL PERMIT FEES.

- b. Oversize only, two (2) trips, ~~eighteen~~ thirty-three dollars (~~\$18~~33). ~~(8-25-04)~~()

OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION

IDAPA 46 - BOARD OF VETERINARY MEDICAL EXAMINERS

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-0601

NOTICE OF RULEMAKING - CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the proposed rulemaking under Docket No. 46-0101-0601 in the October 4, 2006, Idaho Administrative Bulletin, Volume 06-10. The error was a transcription error in Subsection 005.01 in which Subsection 005.01.b. was inadvertently duplicated within the Subsection following Subsection 005.01.c. The corrected text is reprinted following this notice.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 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 and Section 54-2105, Idaho Code.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the December 6, 2006, Idaho Administrative Bulletin, Volume 06-12, pages 131 and 132. The text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Volume 06-10, pages 564 through 584.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction to pending rule, contact Dennis Stevenson, Administrative Rules Coordinator.

DATED this 25th day of January, 2007.

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

THE FOLLOWING IS THE CORRECTED TEXT OF PENDING RULE DOCKET NO. 46-0101-0601

005. INCORPORATION BY REFERENCE.

01. Documents Incorporated. The following documents are incorporated herein by reference in accordance with the provision of Section 67-5229, Idaho Code. (3-30-01)

a. The Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), adopted January 1, ~~1999~~ 2005. (~~3-30-01~~)()

b. The Educational Commission for Foreign Veterinary Graduates Information for Graduates of Colleges of Veterinary Medicine Outside the United States and Canada (ECFVG), adopted May 1, 2000. (3-30-01)

c. The American Association of Veterinary State Boards' (AAVSB) Program for the Assessment of Veterinary Education (PAVE), adopted August 15, 2002. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0701

NOTICE OF FINAL DECISION ON THE LINDSAY CREEK SUBBASIN TMDL (HUC 17060306)

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Lindsay Creek Total Maximum Daily Load (TMDL).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Lindsay Creek Subbasin TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Lindsay Creek Subbasin TMDLs (Hydrologic Unit Code (HUC) 17060306, a tributary within the Clearwater Basin) addresses two (2) assessment units on Idaho's 2002 Section 303(d) list. The two (2) assessment units (AUs) contain six (6) TMDLs. In addition, the same two (2) AUs are recommended for listing changes for temperature, dissolved oxygen, flow and habitat alteration. DEQ has submitted this HUC 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/lindsay_creek/lindsay_creek.cfm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, Marti.Bridges@deq.idaho.gov.

Dated this 13th day of December, 2006.

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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IDAPA 18 - DEPARTMENT OF INSURANCE

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IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.21 - Rules Governing Special Permit Fees

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IDAPA 46 - BOARD OF VETERINARY MEDICAL EXAMINERS

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

Because of the moratorium on proposed rulemaking during the legislative session there are no proposed rules being promulgated or published in this month's Bulletin

Please refer to the Idaho Administrative Bulletin, **February 7, 2007, Volume 07-2** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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

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

The Idaho Administrative Bulletin and Administrative Code are available on-line at: **<http://adm.idaho.gov/adminrules/>**

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK YOU HAVE
TO BE CONNECTED TO THE INTERNET**

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