

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 06-1 refers to the first Bulletin issued in calendar year 2006; Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 07-1 refers to January 2007; Volume No. 07-2 refers to February 2007; and so forth. Example: The Bulletin published in January of 2007 is cited as Volume 07-1. The December 2006 Bulletin is cited as Volume 06-12.

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 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 only published in the Bulletin and **not** printed in the Administrative Code.*

*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 requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as 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 rule that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

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

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

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

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

FINAL RULEMAKING

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

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes 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 83720-0306, 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 a table 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 38.05.01.200.02.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.*

*"**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 "-", (38-0501-0701). 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 number:

"DOCKET NO. 38-0501-0701"

"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**).

"0701" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in **calendar year 2007**. A subsequent rulemaking on this same rule chapter in calendar year 2007 would be designated as "0702". The docket number in this scenario would be 38-0501-0702.

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 2007

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
07-1	January 2007	*November 15, 2006	January 3, 2007	January 24, 2007
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 25, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 23, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 27, 2007
07-7	July 2007	June 1, 2007	July 4, 2007	July 25, 2007
07-8	August 2007	June 29, 2007	August 1, 2007	August 22, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 26, 2007
07-10	October 2007	**August 24, 2007	October 3, 2007	October 24, 2007
07-11	November 2007	October 5, 2007	November 7, 2007	November 28, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	December 26, 2006

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2008

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
08-1	January 2008	*November 14, 2007	January 2, 2008	January 22, 2008
08-2	February 2008	January 4, 2008	February 6, 2008	February 27, 2008
08-3	March 2008	February 8, 2008	March 5, 2008	March 26, 2008
08-4	April 2008	March 7, 2008	April 2, 2008	April 23, 2008
08-5	May 2008	April 4, 2008	May 7, 2008	May 28, 2008
08-6	June 2008	May 2, 2008	June 4, 2008	June 25, 2008
08-7	July 2008	May 30, 2008	July 2, 2008	July 23, 2008
08-8	August 2008	July 3, 2008	August 6, 2008	August 27, 2008
08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	**August 20, 2008	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 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. 2007-05

**ESTABLISHING A STATE POLICY REGARDING THE ROLE OF STATE GOVERNMENT
IN REDUCING GREENHOUSE GASES**

WHEREAS, there are indications that atmospheric concentrations of greenhouse gases are rising and are projected to continue to increase; and

WHEREAS, human activities contribute to creation of greenhouse gases; and

WHEREAS, greenhouse gases are believed to trap heat in the atmosphere and have been linked by the U.S. National Academy of Sciences to drought, reduced snow pack, altered precipitation patterns, more severe forest and rangeland fires, and forest diseases; and

WHEREAS, the Western Governors' Association projects that rising levels of greenhouse gases in the atmosphere could have economic and environmental impacts on the West in coming decades, and

WHEREAS, the causes and effects of rising greenhouse gases, to the degree they are understood, may extend to the Western United States and the State of Idaho, and it is incumbent upon states to take a leadership role in developing responsive state-level policies and programs to reduce greenhouse gas emissions, develop alternative energy sources and use energy efficiently,

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

- 1. The Director of the Department of Environmental Quality shall take a leadership role to work with all state government departments and agencies and shall serve as the central point of contact for coordination and implementation of greenhouse gas reduction efforts and other associated activities.*
- 2. The Director of the Department of Environmental Quality shall develop a greenhouse gas emission inventory and provide recommendations to the Governor on how to reduce greenhouse gas emissions in Idaho, recognizing Idaho's interest in continued growth, economic development and energy security.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, Idaho, on this 16th day of May 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*

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.03 - RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-207, Idaho Code.

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

**Thursday, July 12, 2007
6:30 - 7:00 PM
Nampa Civic Center
311 Third Street South
Nampa, ID 83651**

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

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

This rule updates the incorporation by reference section, adds sections to list reportable and notifiable diseases by name, and makes typographical, technical, and grammatical corrections.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Necessary to protect the public health, safety, or welfare.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fiscal impact.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because this rule makes changes agreed to with the legislative committees.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 25th day of May, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0403-0701

004. INCORPORATION BY REFERENCE.

- 01. Incorporated Documents.** IDAPA 02.04.03 incorporates by reference the following documents: (5-3-03)
2003. **a.** The USDA Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, (3-30-07)
- b.** National Poultry Improvement Plan ~~Dated~~ Auxiliary Provisions, February ~~12, 2004~~. ~~(3-30-07)~~(7-1-07)T
- c.** Title 9, Parts 145, 147, and 161, CFR, January 1, 2006. (3-30-07)
- d.** The Compendium of Animal Rabies Prevention and Control, 2005~~7~~. ~~(3-30-07)~~(7-1-07)T
- ~~**e.** *List of Diseases Notifiable to the OIE, 2006.* (3-30-07)~~

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

As used in these rules the following terms have the following meanings: (5-3-03)

- 01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (5-3-03)
- 02. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (5-3-03)
- 03. Animal.** Any vertebrate member of the animal kingdom, except man. (3-20-04)
- 04. Approved Pseudorabies Vaccine.** Any pseudorabies vaccine produced under current USDA license and intended for immunizing swine against pseudorabies. (3-20-04)
- 05. Cachexia.** Weakness and emaciation caused by a serious disease such as tuberculosis or cancer. (3-20-04)
- 06. Department.** The Idaho State Department of Agriculture. (5-3-03)
- 07. Director.** Director of the Idaho State Department of Agriculture or his designee. (9-6-61)
- 08. Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (5-3-03)
- 09. Epithelioma.** Cancer or tumor. (3-20-04)
- 10. Equidae.** Horses, mules, and asses. (3-20-04)
- 11. Exposed Livestock.** Any livestock that have been in contact with an animal infected with, or affected by, any contagious, infectious or communicable disease, including all livestock in a known infected herd. (3-20-04)

12. **Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-20-04)
13. **Gamebirds.** Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse, and guineas. (5-3-03)
14. **Garbage.** Putrescible animal and vegetable waste containing animal parts resulting from the handling, preparation, processing, cooking or consumption of foods. (3-20-04)
15. **Hatching Eggs.** Fertilized eggs. (5-3-03)
16. **Herd.** A herd is any group of livestock maintained on common ground for any purpose, or two (2) or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to contagious, infectious, or communicable animal diseases. (3-20-04)
17. **Infected Livestock.** Any livestock determined to be infected with a contagious infectious, of communicable disease by an official test or diagnostic procedure, or diagnosed by a veterinarian as infected. (3-20-04)
18. **Interstate Movement.** Movements of livestock and poultry from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (3-20-04)
19. **Intrastate Movement.** Movement of any animal from one location to another location within Idaho. (3-20-04)
20. **Known Infected Herd.** Any herd in which any livestock has been determined to be infected with contagious, infectious, or communicable diseases by an official test or diagnostic procedure, or diagnosed by a veterinarian as being infected. (3-20-04)
21. **Livestock.** Swine, cattle, sheep, goats, equidae, domestic bison, domestic cervidae, camelids, ratites, ~~captive antilocapridae~~ and other domestically raised animals. ~~(3-20-04)~~ (7-1-07)T
22. **Necrosis.** Death of tissue. (3-20-04)
23. **Negative.** An animal that has been tested with official test procedures and is found to be negative. (3-20-04)
24. **Neoplastic Tissue.** New growth or tissue associated with a tumor. (3-20-04)
25. **Official Pseudorabies Test.** Any test for the diagnosis of pseudorabies that has been approved by USDA/APHIS and is conducted by a state/federal approved laboratory. (3-20-04)
26. **Orbital Region.** The ~~bony~~ cavity containing the eye and surrounding bones. ~~(3-20-04)~~ (7-1-07)T
27. **Positive.** An animal that has been tested and found positive with official disease test procedures and is considered infected with any contagious, infectious, or communicable disease. (3-20-04)
28. **Poultry.** Domesticated fowl, including chickens, turkeys, waterfowl, and gamebirds. (5-3-03)
29. **Pseudorabies.** The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch or infectious paralysis. (3-20-04)
30. **Quarantine.** A written order, or a verbal order followed by a written order, executed by the Administrator, to confine or hold animals on a premise or any other location, and to prevent movement of animals

from a premise or any other location when the Administrator has determined that the animals have been found or are suspected to be exposed to or infected with any contagious, infectious, or communicable disease, or the animals are not in compliance with the provisions of this chapter. (3-20-04)

31. Quarantined Area. The counties, areas, or districts, portions thereof, quarantined by the Division of Animal Industries for specific contagious, infectious, or communicable animal diseases. (5-3-03)

32. Quarantined. Isolation of all animals diseased or exposed thereto, from contact with healthy animals and exclusion of such healthy animals from enclosures or grounds where said diseased or exposed animals are, or have been kept. (9-6-61)

33. Ratites. Large, non-flying birds including, but not limited to ostriches, emus, cassowaries, and rheas. (3-20-04)

34. Registered Veterinarians. Veterinarians registered with, and approved by, the Division of Animal Industries to collect Trichomoniasis samples for official Trichomoniasis culture testing. (5-3-03)

35. Restrain. The confinement of livestock, or other animals, in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing, as approved by the Administrator. (3-20-04)

36. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. (5-3-03)

37. Stockyards. A facility where trading in livestock is carried on, where yarding, feeding and watering places are provided by the stockyards or transportation companies, or where livestock associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals. (3-20-04)

38. Suppuration. The formation of pus. (3-20-04)

39. Suspect. An animal that has a response to an official test, but the response is not sufficient to determine the disease status of the animal tested. (3-20-04)

40. Swine. All breeds of domestic porcine and all wild and exotic porcine. (3-20-04)

41. Swine Feedlot. Premises designed and used exclusively for the finish feeding of swine, from which the swine will be moved directly to slaughter. (3-20-04)

42. Waterfowl. Domesticated fowl that normally swim such as ducks and geese. (5-3-03)

43. Wildfowl. Wild gallinaceous fowl, turkeys, and waterfowl. (5-3-03)

011. ABBREVIATIONS.

01. AGID. Agar gel immunodiffusion. (3-30-07)

02. APHIS. Animal and Plant Health Inspection Service. ~~(5-3-03)~~(7-1-07)T

03. c-ELISA. Competitive Enzyme Linked Immunosorbent Assay. (3-30-07)

04. CFR. Code of Federal Regulations. (5-3-03)

05. EIA. Equine Infectious Anemia. (3-20-04)

06. NPIP. National Poultry Improvement Plan. (5-3-03)

~~**07. OIE.** Office International des Epizooties. (3-30-07)~~

- ~~087.~~ USDA. United States Department of Agriculture. (5-3-03)
~~098.~~ VS. Veterinary Services. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

193. NPIP CERTIFICATES OF PARTICIPATION.

~~During January of each year.~~ The Division of Animal Industries will issue NPIP participation certificates annually to the owners of poultry and ratites that meet the following requirements: ~~(5-3-03)(7-1-07)T~~

- 01. Records.** Each NPIP participant must have on file records of their flock qualification testing; and (5-3-03)
02. Inspection Forms. Each NPIP participant shall have on file a copy of the annual inspection form from the previous year documenting compliance with the NPIP program. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

203. DISPOSITION OF EIA REACTORS.

Equidae found to be infected with EIA shall be: (3-20-04)

- 01. Quarantined.** Quarantined to the premises where the animal was found to be infected, the owner's premises, or another premises that is approved by the Administrator. ~~(3-20-04)(7-1-07)T~~
02. Duration of Quarantine. The infected animal shall remain under quarantine until it is: (3-20-04)
a. Consigned to slaughter at a USDA approved equine slaughter establishment; or (3-20-04)
b. Euthanized and buried or incinerated; or (3-20-04)
c. Donated to a university or other research facility for use in EIA research projects. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

208. -- ~~34299.~~ (RESERVED).

3500. FOREIGN ANIMAL AND REPORTABLE DISEASES.

It is ~~hereby made~~ the duty of all persons in ~~this state~~ Idaho to report to the Administrator immediately, by telephone, facsimile, or electronic mail, any lesions or symptoms resembling ~~foot and mouth disease, or any other diseases exotic to Idaho~~ any of the foreign animal and reportable diseases listed in this chapter, that they may find existing among the animals in ~~the state, including:~~ Idaho. The Administrator may add a foreign animal and reportable disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported. ~~(3-20-04)(7-1-07)T~~

- ~~01. List of Diseases Notifiable to the OIE, 2006. (3-30-07)~~
~~02. Chronic Wasting Disease. (3-20-04)~~
~~03. Pseudorabies. (3-20-04)~~

301. FOREIGN ANIMAL AND REPORTABLE DISEASES - MULTIPLE SPECIES.

- 01. Anthrax. (7-1-07)T
- 02. Brucellosis. (7-1-07)T
- 03. Foot and Mouth Disease. (7-1-07)T
- 04. Heartwater. (7-1-07)T
- 05. Leishmaniasis. (7-1-07)T
- 06. Plague (*Yersinia pestis*). (7-1-07)T
- 07. Pseudorabies. (7-1-07)T
- 08. Q Fever (*Coxiella burnetti*). (7-1-07)T
- 09. Rabies. (7-1-07)T
- 10. Rift Valley Fever. (7-1-07)T
- 11. Scabies. (7-1-07)T
- 12. Screw Worms. (7-1-07)T
- 13. Theileriosis. (7-1-07)T
- 14. Trypanosomiasis. (7-1-07)T
- 15. Tuberculosis. (7-1-07)T
- 16. Tularemia. (7-1-07)T
- 17. Vesicular Stomatitis. (7-1-07)T

302. FOREIGN ANIMAL AND REPORTABLE DISEASES - AVIAN DISEASES.

- 01. Avian Influenza. (7-1-07)T
- 02. Avian Chlamydiosis (*Psittacosis*). (7-1-07)T
- 03. Exotic Newcastle Disease. (7-1-07)T

303. FOREIGN ANIMAL AND REPORTABLE DISEASES - BOVINE DISEASES.

- 01. Babesiosis. (7-1-07)T
- 02. Bovine Brucellosis (*B. abortus*). (7-1-07)T
- 03. Bovine Spongiform Encephalopathy. (7-1-07)T
- 04. Bovine Tuberculosis. (7-1-07)T
- 05. Contagious Bovine Pleuropneumonia. (7-1-07)T
- 06. Crimean Congo Hemorrhagic Fever. (7-1-07)T

- 07. Lumpy Skin Disease.** (7-1-07)T
- 08. Malignant Catarrhal Fever (Foreign Type).** (7-1-07)T
- 09. Rinderpest.** (7-1-07)T
- 10. Trichomoniasis.** (7-1-07)T
- 304. FOREIGN ANIMAL AND REPORTABLE DISEASES - CERVIDAE DISEASES.**
Chronic Wasting Disease is a reportable disease. (7-1-07)T
- 305. FOREIGN ANIMAL AND REPORTABLE DISEASES - EQUINE DISEASES.**
- 01. African Horse Sickness.** (7-1-07)T
- 02. Contagious Equine Metritis.** (7-1-07)T
- 03. Dourine.** (7-1-07)T
- 04. Equine Encephalomyelitis (Eastern, Western, Venezuelan).** (7-1-07)T
- 05. Equine Infectious Anemia.** (7-1-07)T
- 06. Equine Piroplasmosis (*Babesiosis*).** (7-1-07)T
- 07. Glanders.** (7-1-07)T
- 08. Hendra Virus.** (7-1-07)T
- 09. Japanese Encephalitis.** (7-1-07)T
- 10. Surra (*Trypanosoma Evansi*).** (7-1-07)T
- 306. FOREIGN ANIMAL AND REPORTABLE DISEASES - FISH DISEASES.**
- 01. Asian Tapeworm of Carp.** (7-1-07)T
- 02. Oncorhynchus Masou Virus Disease.** (7-1-07)T
- 03. Spring Viremia of Carp.** (7-1-07)T
- 04. Viral Hemorrhagic Septicemia.** (7-1-07)T
- 307. FOREIGN ANIMAL AND REPORTABLE DISEASES - LAGOMORPH DISEASES.**
Rabbit Hemorrhagic Disease is a reportable disease. (7-1-07)T
- 308. FOREIGN ANIMAL AND REPORTABLE DISEASES - SHEEP AND GOAT DISEASES.**
- 01. Contagious Caprine Pleuropneumonia.** (7-1-07)T
- 02. Nairobi Sheep Disease.** (7-1-07)T
- 03. Ovine Brucellosis (*B. melitensis*).** (7-1-07)T
- 04. Peste des Petits Ruminants.** (7-1-07)T

- 05. Scrapie.** (7-1-07)T
- 06. Sheep and Goat Pox.** (7-1-07)T
- 309. FOREIGN ANIMAL AND REPORTABLE DISEASES - SWINE DISEASES.**
- 01. African Swine Fever.** (7-1-07)T
- 02. Classical Swine Fever (Hog Cholera).** (7-1-07)T
- 03. Enterovirus Encephalitis (Teschen Disease).** (7-1-07)T
- 04. Nipah Virus Encephalitis.** (7-1-07)T
- 05. Porcine Brucellosis (*B. suis*).** (7-1-07)T
- 07. Swine Vesicular Disease.** (7-1-07)T
- 310. -- 329. (RESERVED).**
- 330. NOTIFIABLE DISEASES.**
All veterinarians licensed to practice in Idaho shall report any notifiable diseases listed in this chapter to the Administrator. The Administrator may add a notifiable disease by issuing an administrative order explaining in writing the reasons for requiring the disease to be reported. (7-1-07)T
- 331. NOTIFIABLE DISEASES - MIXED SPECIES DISEASES.**
West Nile Virus is a notifiable disease. (7-1-07)T
- 332. NOTIFIABLE DISEASES - AVIAN DISEASES.**
- 01. Avian Mycoplasmosis (*M. gallisepticum* and *M. synoviae*).** (7-1-07)T
- 02. Fowl Typhoid (*Salmonella gallinarum*).** (7-1-07)T
- 03. Pullorum Disease (*Salmonella pullorum*).** (7-1-07)T
- 333. NOTIFIABLE DISEASES - BOVINE DISEASES.**
- 01. Hemorrhagic Septicemia (*Pasteurella multocida*).** (7-1-07)T
- 02. Malignant Catarrhal Fever (Sheep Associated).** (7-1-07)T
- 334. NOTIFIABLE DISEASES - EQUINE DISEASES.**
- 01. Equine Viral Arteritis.** (7-1-07)T
- 02. Equine Rhinopneumonitis.** (7-1-07)T
- 335. NOTIFIABLE DISEASES - FISH DISEASES.**
- 01. Epizootic Hematopoietic Necrosis.** (7-1-07)T
- 02. Infectious Hematopoietic Necrosis.** (7-1-07)T
- 03. Whirling Disease.** (7-1-07)T
- 336. NOTIFIABLE DISEASES - LAGOMORPH DISEASES.**

Myxomatosis is a notifiable disease. (7-1-07)T

337. NOTIFIABLE DISEASES - SHEEP AND GOAT DISEASES.

- 01. Bluetongue.** (7-1-07)T
- 02. Caprine Arthritis/Encephalitis (CAE).** (7-1-07)T
- 03. Caseous Lymphadenitis.** (7-1-07)T
- 04. Contagious Agalactia (*Mycoplasma spp.*).** (7-1-07)T
- 05. Enzootic Abortion (*Chlamydia psittici*).** (7-1-07)T
- 06. Footrot.** (7-1-07)T
- 07. Haemonchus Contortus (drug-resistant).** (7-1-07)T
- 08. Johne's Disease.** (7-1-07)T
- 09. Maedi-Visna/Ovine Progressive Pneumonia (OPP).** (7-1-07)T
- 10. Ovine Epididymitis (*Brucella ovis*).** (7-1-07)T
- 11. Toxoplasma Gondii Abortion.** (7-1-07)T
- 12. Vibrionic Abortion (*Campylobacter fetus*).** (7-1-07)T

338. NOTIFIABLE DISEASES - SWINE DISEASES.

- 01. Porcine Reproductive and Respiratory Syndrome (PRRS).** (7-1-07)T
- 02. Transmissible Gastroenteritis.** (7-1-07)T

~~354~~39. -- 359. (RESERVED).

360. ACTINOMYCOSIS ~~AND ACTINOBACILLOSIS,~~ (LUMP JAW).

01. Selling Diseased Animal. It shall be unlawful for any person to knowingly sell, offer for sale, or in any manner transfer ownership to another person any animal infected or affected with the disease known as actinomycosis ~~and actinobacillosis,~~ or lump jaw; if the disease shows well-marked clinical symptoms, or is in the advanced stage, except for immediate slaughter, and then only in accordance with the meat inspection rules and regulations of the USDA. (~~3-20-04~~)(7-1-07)T

02. Public Livestock Markets. Animals showing well marked clinical symptoms or in the advanced stage of actinomycosis ~~and actinobacillosis,~~ or lump jaw; passing through public livestock markets shall be placed in quarantine pens and sold ~~therefrom~~ only from the quarantine pen. (~~3-20-04~~)(7-1-07)T

IDAPA 02 - DEPARTMENT OF AGRICULTURE

**02.04.28 - RULES GOVERNING LIVESTOCK DEALERS, BUYING STATIONS,
AND LIVESTOCK TRADER LOTS**

DOCKET NO. 02-0428-0701 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 25-207, and 25-601, Idaho Code.

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

**Thursday, July 12, 2007
7:00 p.m. -- 9:00 p.m.
Nampa Civic Center
311 Third Street South
Nampa, ID 83651**

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rule establishes facility, recordkeeping, and movement requirements for livestock dealers, buying stations, and livestock trader lots.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Necessary to protect the public health, safety, or welfare.

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

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

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted; however, this rule was developed with input from cattle producers and livestock dealers. These changes are required by USDA in order for Idaho to regain brucellosis class free status.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 25th day of May 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0428-0701

IDAPA 02
TITLE 04
CHAPTER 28

**02.04.28 – RULES GOVERNING LIVESTOCK DEALERS, BUYING STATIONS,
AND LIVESTOCK TRADER LOTS.**

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 25, Chapters 2, 4, 6, and 35, Idaho Code. (6-1-07)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots.” (6-1-07)T

02. Scope. These rules shall govern the record keeping of livestock dealers and facilities, record keeping, animal identification, quarantine facilities and movement of cattle in approved buying stations and approved livestock trader lots. The official citation of this chapter is IDAPA 02.04.28.000 et. seq. For example, this Section’s citation is IDAPA 02.04.28.001. (6-1-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (6-1-07)T

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (6-1-07)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference. (6-1-07)T

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (6-1-07)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m. Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (6-1-07)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701-0790. (6-1-07)T

04. Telephone Number. The telephone number for the Division of Animal Industries at the central office is (208) 332-8540. (6-1-07)T

05. Fax Number. The fax number for the Division of Animal Industries at the central office is (208) 334-4062. (6-1-07)T

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records available for inspection and copying at the Central Office of the Idaho State

Department of Agriculture. (6-1-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter. (6-1-07)T

01. Accredited Veterinarian. A veterinarian approved by the Administrator and the USDA/APHIS/VS, in accordance with provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (6-1-07)T

02. Administrator. The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (6-1-07)T

03. Approved Slaughter Establishment. A USDA inspected slaughter establishment where ante-mortem and post-mortem inspection is conducted by USDA inspectors. (6-1-07)T

04. Buying Station. A specific livestock facility where cattle are concentrated for delivery directly to an approved slaughter establishment within seven (7) days of arrival at the buying station. (6-1-07)T

05. Cattle. All domestic bovidae including domestic bison. (6-1-07)T

06. Department. The Idaho State Department of Agriculture. (6-1-07)T

07. Director. The director of the Idaho State Department of Agriculture, or his designee. (6-1-07)T

08. Division. Idaho State Department of Agriculture, Division of Animal Industries. (6-1-07)T

09. Domestic Bison. All animals in the genus *Bison*, which are owned by a person. (6-1-07)T

10. Domestic Cervidae. Elk, fallow deer, and reindeer owned by a person. (6-1-07)T

11. Epithelioma of the Eye. A carcinoma of the eye of cattle commonly known as cancer eye. (6-1-07)T

12. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (6-1-07)T

13. Interstate Movement. Movement of livestock from Idaho into any other state, territory or the District of Columbia, or from any other state, territory or the District of Columbia into Idaho. (6-1-07)T

14. Livestock. Cattle, domestic bison, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. (6-1-07)T

15. Livestock Dealer. A person licensed by the State Brand Board pursuant to Title 25, Chapter 33, Idaho Code. (6-1-07)T

16. Livestock Trader Lot. A specific livestock facility owned or operated by a person licensed by the State Brand Board pursuant to Title 25, Chapter 33, Idaho Code, where test eligible cattle of unknown disease status are received from the farm or ranch of origin and some test eligible cattle are sold to individuals and transported to destinations other than an approved slaughter establishment, a specifically approved livestock market, an Idaho approved feedlot, or out of the state of Idaho. (6-1-07)T

17. Lump Jaw. Condition also known as actinomycosis in cattle. (6-1-07)T

18. Official Ear Tag. APHIS approved identification ear tags conforming to the alphanumeric national uniform ear tagging system including official brucellosis vaccination ear tags, or NAIS compliant ear tags, which

provide unique identification for each animal. (6-1-07)T

19. Official Identification. Official USDA approved ear tag, USDA Backtag, breed registration tattoo, or identification method approved by the Administrator. (6-1-07)T

20. Official Brucellosis Vaccination Ear Tag. An APHIS approved identification ear tag conforming to the alphanumeric national uniform ear tagging system, which provides unique identification for each animal. (6-1-07)T

21. Operator. The person who has authority to manage or direct a buying station or livestock trader lot. (6-1-07)T

22. Owner. The person who owns or has financial control of a buying station, livestock trader lot or cattle. (6-1-07)T

23. Parturient. Visibly prepared to give birth or within two (2) weeks before giving birth. (6-1-07)T

24. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (6-1-07)T

25. Postparturient. Having already given birth. (6-1-07)T

26. Premises. The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. (6-1-07)T

27. Previous Location. The premises where cattle were confined immediately prior to delivery to a buying station, livestock trader lot, or purchase by a livestock dealer. (6-1-07)T

28. Restraint. The confinement of cattle in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (6-1-07)T

29. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. (6-1-07)T

30. Test Eligible. Unless otherwise specifically provided in these rules, all sexually intact cattle and domestic bison eighteen (18) months of age and over, and all parturient, and postparturient cattle and domestic bison regardless of age. (6-1-07)T

31. USDA Backtag. A backtag issued by APHIS that conforms to the eight-character alphanumeric National Backtagging System that provides unique identification for each animal. (6-1-07)T

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. (6-1-07)T

02. AVIC. Area Veterinarian In Charge. (6-1-07)T

03. CAFO. Concentrated Animal Feeding Operation. (6-1-07)T

04. CFR. Code of Federal Regulations. (6-1-07)T

05. NAIS. National Animal Identification System. (6-1-07)T

06. USDA. United States Department of Agriculture. (6-1-07)T

07. VS. Veterinary Services. (6-1-07)T

012. -- 019. (RESERVED).

020. APPLICABILITY.

These rules apply to livestock dealers, buying stations, and livestock trader lots operating in Idaho. (6-1-07)T

021. -- 029. (RESERVED).

030. INSPECTIONS.

To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect livestock records, premises, facilities, and livestock to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to livestock dealers, buying stations and livestock trader lots. (6-1-07)T

01. Entering Premises. In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter buying stations or livestock trader lots. State or federal officials will attempt to notify the owner or operator of the premises prior to conducting an inspection. (6-1-07)T

02. Inspecting Records. To ensure compliance with the provisions of this chapter, state or federal animal health officials are authorized to access, inspect, review, and copy any records deemed necessary during normal business hours. State or federal animal health officials will attempt to notify the owner or operator of the premises prior to inspecting records. (6-1-07)T

03. Emergencies. In the event of an emergency, as determined by the Administrator, the notification requirements of this section are not required. (6-1-07)T

031. -- 039. (RESERVED).

040. LIVESTOCK TREATMENT.

Each livestock dealer, buying station and livestock trader lot shall humanely treat all livestock. All non-ambulatory livestock shall be: (6-1-07)T

01. Returned. Returned to premises of origin; or (6-1-07)T

02. Fed and Watered. Provided adequate feed and clean water; or (6-1-07)T

03. Euthanized. Humanely euthanized. (6-1-07)T

041. -- 049. (RESERVED).

050. DEAD ANIMAL DISPOSAL.

The movement and disposal of all dead animals shall be pursuant to the provisions of IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (6-1-07)T

051. -- 059. (RESERVED).

060. ENVIRONMENTAL REQUIREMENTS.

All buying stations and livestock trader lots shall meet the provisions of IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." (6-1-07)T

061. -- 099. (RESERVED).

100. LIVESTOCK DEALERS.

Livestock dealers that do not operate buying stations or livestock trader lots shall keep complete and accurate records such that cattle purchased may be traced to the previous location, previous owner and the subsequent owner. (6-1-07)T

101. -- 109. (RESERVED).

110. CONTENT OF RECORDS.

Livestock dealer records shall include, but are not limited to: (6-1-07)T

01. Name, Telephone Number, and Address. The name, telephone number, and address of the owner of the cattle prior to purchase by the livestock dealer. (6-1-07)T

02. Identification. All cattle shall be identified to their previous location with a form of identification approved by the Administrator. (6-1-07)T

03. Previous Location. The location where cattle were held prior to purchase by the livestock dealer shall be either the NAIS premises identification number or the physical address. (6-1-07)T

04. The Date of Purchase. The date individual cattle were purchased. (6-1-07)T

05. Date of Sale. Date individual cattle were sold or changed ownership. (6-1-07)T

06. Name, Telephone Number, and Address of the Purchaser of Cattle. The name, telephone number, and address of the person that purchased cattle from the livestock dealer. (6-1-07)T

07. Death Loss. An accurate account of all death loss, including identification, and disposition of the dead cattle. (6-1-07)T

111. -- 119. (RESERVED).

120. RECORDS RETENTION.

Livestock dealers shall retain all records relating to cattle for a period of not less than two (2) years. Records must be made available to the administrator upon request. (6-1-07)T

121. -- 129. (RESERVED).

130. APPROVED FORMS OF IDENTIFICATION.

The following are approved forms of identification. (6-1-07)T

01. USDA Approved Backtag. (6-1-07)T

02. Official USDA Ear Tag. (6-1-07)T

03. Registration Tattoo. Breed registration tattoo and corresponding registration papers. (6-1-07)T

04. Brand Inspection. Statement of ownership such as a brand inspection certificate. (6-1-07)T

05. Administrator Approval. The Administrator may approve other forms of individual identification on a case-by-case basis. (6-1-07)T

06. Removal of Animal Identification. No approved or official animal identification shall be removed, tampered with or otherwise altered. (6-1-07)T

131. -- 199. (RESERVED).

200. APPROVED BUYING STATIONS.

No livestock dealer shall operate a buying station prior to receiving approval from the Administrator. All cattle entering the buying station shall be shipped to an approved slaughter establishment within seven (7) days of arrival at the buying station. (6-1-07)T

201. APPLICATION FOR DESIGNATION AS AN IDAHO APPROVED BUYING STATION.

Application for designation as an Idaho approved buying station shall be made on application forms available from the Administrator. (6-1-07)T

202. ADMINISTRATOR APPROVAL.

State or federal animal health officials shall inspect all buying stations prior to approval by the Administrator. The Administrator may take any past enforcement or violation history of the owner or operator of the buying station into consideration when making the final approval determination. (6-1-07)T

203. APPROVED BUYING STATION NUMBER.

The license number issued to the livestock dealer by the State Brand Board shall be used to identify the approved buying station. (6-1-07)T

204. EXPIRATION OF APPROVED STATUS.

Approved buying station status shall remain in effect unless the status is revoked by the Administrator or there is a change in ownership or operator. If there is a change in ownership or operator, it is the responsibility of the new buying station owner or operator to apply for reinstatement of approved status. (6-1-07)T

205. REVOCATION OF APPROVED BUYING STATION STATUS.

In addition to any other Department administrative or civil action, the Administrator may withdraw or deny the approval of any buying station, by notifying the owner in writing, when one (1) or more of the following conditions exist: (6-1-07)T

01. Recordkeeping Requirements. There is evidence that the owner or operator of the buying station violated the recordkeeping requirements of this rule, or animal health regulations. (6-1-07)T

02. Inability to Trace Animals. There is a repeated history of an inability to trace the affected, exposed or reactor cattle handled by the buying station to the previous location and owner. (6-1-07)T

03. Violations. A buying station violates any of the provisions of this chapter. (6-1-07)T

04. Owner Request. Owners may have the approved status revoked by emptying the buying station and requesting in writing that the status be revoked. (6-1-07)T

05. Regulation Changes. Idaho approved buying station status may be revoked as required by changes in state or federal rules or regulations. (6-1-07)T

206. DISPOSITION OF CATTLE.

When approved buying station status is revoked, cattle still in the buying station shall be removed directly to an approved slaughter establishment within seven (7) days. (6-1-07)T

207. -- 209. (RESERVED).

210. IDENTIFICATION.

All cattle shall be individually identified with an official USDA backtag immediately upon arrival at a buying station. Animal identification is to be maintained to slaughter and shall not be removed, tampered with or otherwise altered. (6-1-07)T

211. -- 219. (RESERVED).

220. BUYING STATION RECORDS.

Each buying station shall keep sufficient records of all livestock that enter, leave, or die on the premises to enable state or federal animal health officials to trace such animals satisfactorily to their previous location. (6-1-07)T

221. CONTENT OF RECORDS -- BUYING STATIONS.

Buying station records shall include, but are not limited to: (6-1-07)T

01. Name, Telephone Number, and Address. The name, telephone number, and address of: (6-1-07)T

- a. The owner of the livestock entering the buying station; and (6-1-07)T
- b. The person delivering the livestock to the buying station. (6-1-07)T
- 02. Individual Identification.** Individual USDA Backtag number for each animal entering the buying station. (6-1-07)T
- 03. Previous Location.** The location where cattle were held prior to purchase by the buying station shall be either the NAIS premises identification number or the physical address. (6-1-07)T
- 04. The Date of Entry.** The date individual cattle enter a buying station. (6-1-07)T
- 05. Date of Shipment to Slaughter.** (6-1-07)T
- 06. Approved Slaughter Establishment Destination.** Name and address of the approved slaughter establishment. (6-1-07)T
- 07. Death Loss.** An accurate account of all death loss, including individual identification number and disposition of the dead cattle. (6-1-07)T
- 08. Dead Animals.** An accurate description, including any forms of identification, of any dead animals that are left at the buying station by other persons. (6-1-07)T
- 222. BUYING STATION RECORDS RETENTION.**
All records relating to cattle that have been in the buying station facility shall be retained for a period of not less than two (2) years. Records must be made available to the administrator upon request. (6-1-07)T
- 223. -- 229. (RESERVED).**
- 230. CATTLE SUBJECT TO QUARANTINE -- BUYING STATIONS.**
No cattle that have reacted to the brucellosis or tuberculosis test, or cattle affected with, or suspected of being affected with a foreign animal disease, shall be allowed to enter, occupy, or be sold from a buying station. (6-1-07)T
- 231. -- 239. (RESERVED).**
- 240. PREMISES REQUIREMENTS.**
An approved buying station shall meet the following requirements: (6-1-07)T
- 01. Restraint System.** A restraint system, approved by the Administrator, for humanely, efficiently and effectively restraining livestock for the purpose of inspecting, identifying or testing of animals by state or federal animal health officials. (6-1-07)T
- 02. Feed and Water.** All cattle that are on the premises for over twelve (12) hours shall have access to a clean source of water sufficient to provide for the number of animals present, and an adequate quality and quantity of feed. (6-1-07)T
- 03. Pens.** The premises shall be in compliance with IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and pens that contain cattle remaining on the premises for over twelve (12) hours shall provide adequate pen space for the cattle to rest and ruminant, and shall provide adequate drainage. (6-1-07)T
- 04. Fences.** All fences shall be constructed sufficient to prevent the escape of livestock from the premises, as determined by the Administrator. (6-1-07)T
- 05. Condition.** The premises shall be maintained in good repair. (6-1-07)T
- 241. -- 249. (RESERVED).**

250. SANITATION.

All buying stations shall be maintained in a sanitary condition. The buying station shall provide the necessary equipment to clean and disinfect the premises, and the owner or operator of the buying station shall clean and disinfect the premises at the direction of the Administrator. (6-1-07)T

251. -- 259. (RESERVED).

260. SIGNAGE.

Each buying station shall comply with the following signage requirements: (6-1-07)T

01. Wording. Signs shall state "ALL CATTLE ENTERING THIS FACILITY SHALL GO DIRECTLY TO SLAUGHTER." (6-1-07)T

02. Color. Lettering shall be red and not less than four (4) inches in height on a white background. (6-1-07)T

03. Location. Signs shall be placed prominently at each entrance, exit and cattle loading or unloading facility. (6-1-07)T

261. -- 269. (RESERVED).

270. LOCATION OF BUYING STATIONS.

All buying stations shall be located separate and apart from any other cattle handling facilities, as determined by the Administrator, that handle any cattle not destined to slaughter within seven (7) days. (6-1-07)T

271. -- 499. (RESERVED).

500. APPROVED LIVESTOCK TRADER LOTS.

All livestock dealers licensed by the Idaho State Brand Board shall receive approval from the Administrator as an Idaho approved feedlot or approved livestock trader lot if the following conditions exist: (6-1-07)T

01. Cattle Are Received. Cattle of unknown disease status are received from the farm or ranch of origin. (6-1-07)T

02. Sold to Individuals. Brucellosis test eligible cattle are sold and transported to destinations other than an approved slaughter establishment, a specifically approved livestock market, an Idaho approved feedlot, or out of the state of Idaho. (6-1-07)T

501. APPLICATION FOR APPROVED LIVESTOCK TRADER LOT STATUS.

Application for approved livestock trader lot status shall be made on application forms available from the Administrator. (6-1-07)T

502. ADMINISTRATOR APPROVAL.

The Administrator may approve livestock trader lot applications after state or federal animal health officials have inspected the trader lot facility and: (6-1-07)T

01. Adequate Facilities. The livestock dealer has demonstrated that cattle can be secured and restrained in the facility. (6-1-07)T

02. Adequate Records. The livestock dealer's records are adequate to show the origin and disposition of the cattle that enter the facility. (6-1-07)T

03. Past History. The Administrator may take any past enforcement or violation history of the owner or operator of the livestock trader lot into consideration when making the final approval determination. (6-1-07)T

503. APPROVED LIVESTOCK TRADER LOT NUMBER.

The license number issued by the State Brand Board to livestock dealers shall be used to identify the livestock trader lot. (6-1-07)T

504. EXPIRATION OF APPROVED STATUS.

Approved livestock trader lot status shall remain in effect unless there is a material change in operation, as determined by the Administrator, or the status is revoked by the Administrator. If there is a material change in operation, as determined by the Administrator, it is the responsibility of the livestock dealer to apply for reinstatement of approved status. (6-1-07)T

505. -- 519. (RESERVED).

520. IDENTIFICATION.

All cattle shall be identified, to their previous location, with a form of identification approved by the Administrator immediately upon arrival at a livestock trader lot. Animal identification is to be maintained and shall not be removed, tampered with, or otherwise altered at the livestock trader lot. (6-1-07)T

521. APPROVED FORMS OF IDENTIFICATION.

The following are approved forms of individual identification. (6-1-07)T

01. USDA Approved Backtag. All brucellosis test eligible cattle shipped to approved slaughter establishments must be individually identified with an approved USDA Backtag. (6-1-07)T

02. Official USDA Ear Tag. (6-1-07)T

03. Registration Tattoo. A breed registration tattoo accompanied by registration papers. (6-1-07)T

04. Brand Inspection. Statement of ownership such as a brand inspection certificate. (6-1-07)T

05. Administrator Approval. The Administrator may approve other forms of identification on a case-by-case basis. (6-1-07)T

06. Removal of Individual Animal Identification. No approved animal identification shall be removed, tampered with or otherwise altered. (6-1-07)T

522. CONTENT OF RECORDS FOR APPROVED LIVESTOCK TRADER LOTS.

All approved livestock trader lots shall keep accurate and complete records of all cattle that enter, leave or die on the premises. These records shall readily show: (6-1-07)T

01. Name, Telephone Number, and Address. The name, telephone number, and address of: (6-1-07)T

a. The owner of the cattle prior to acquisition by the livestock dealer; and (6-1-07)T

b. The person delivering the cattle to the livestock trader lot. (6-1-07)T

02. Identification. Identification, approved by the Administrator, for the cattle entering the livestock trader lot. (6-1-07)T

03. Previous Location. The location where cattle were held prior to entering the livestock trader lot shall be either the NAIS premises identification number or the physical address of the premises. (6-1-07)T

04. The Date of Entry. The date the cattle enter a livestock trader lot. (6-1-07)T

05. Date of Shipment Out of the Livestock Trader Lot. (6-1-07)T

06. Name, Telephone Number, and Address of Shipment Destination. (6-1-07)T

07. Death Loss. An accurate account of all death loss, including identification and disposition of the dead cattle. (6-1-07)T

08. Dead Animals. An accurate description of any dead animals, including any forms of identification, which are left at the livestock trader lot by other persons. (6-1-07)T

09. Requirements. That all applicable state and federal permit, test, examination, identification and vaccination requirements have been met. (6-1-07)T

523. TRADER LOT RECORDS RETENTION.

Livestock trader lots shall retain their records for a period of not less than two (2) years following removal of the cattle from the premises. Records must be made available to the administrator upon request. (6-1-07)T

524 -- 529. (RESERVED).

530. CATTLE SUBJECT TO QUARANTINE -- TRADER LOTS.

No cattle that have reacted to the brucellosis or tuberculosis test, or animals affected with, or suspected of being affected with a foreign animal or reportable disease shall be allowed to enter, occupy, or be sold from a livestock trader lot. (6-1-07)T

531. -- 539. (RESERVED).

540. REMOVAL REQUIREMENTS.

All brucellosis test eligible cattle that are removed from an approved livestock trader lot shall be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian prior to removal, except: (6-1-07)T

01. Livestock Markets. Cattle shipped directly to a specifically approved livestock market. (6-1-07)T

02. Slaughter. Cattle shipped directly to an approved slaughter establishment must be individually identified with an approved USDA Backtag. (6-1-07)T

03. Approved Feedlots. Cattle shipped directly to an Idaho approved feedlot. (6-1-07)T

541. LIVESTOCK DEALER'S DUTY.

It is the duty of a livestock dealer to ensure that all livestock removed from a livestock trader lot are in compliance with the animal health requirements of the state of Idaho and the point of destination. (6-1-07)T

542. -- 549. (RESERVED).

550. LIVESTOCK TRADER LOT PREMISES.

Approved livestock trader lots shall meet the following requirements: (6-1-07)T

01. Restraint System. A restraint system, approved by the Administrator, for humanely, efficiently and effectively restraining cattle for the purpose of inspecting, identifying, treating or testing of animals by state or federal animal health officials. (6-1-07)T

02. Feed and Water. All cattle that are on the premises for over twelve (12) hours shall have access to a clean source of water sufficient to provide for the number of cattle present, and an adequate quality and quantity of feed. (6-1-07)T

03. Pens. The premises shall be in compliance with IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." Pens that contain cattle remaining on the premises for over twelve (12) hours shall be large enough for the cattle to rest and ruminant and shall be adequately drained. (6-1-07)T

04. Fences. All fences shall be constructed sufficiently to prevent the escape of cattle from the premises, as determined by the Administrator. (6-1-07)T

05. Condition. All premises shall be maintained in good repair. (6-1-07)T

551. -- 559. (RESERVED).

560. SANITATION.

All livestock trader lots shall be maintained in a sanitary manner. The livestock dealer shall provide the necessary equipment to clean and disinfect the premises, and the livestock dealer shall clean and disinfect the premises at the direction of the Administrator. (6-1-07)T

561. -- 569. (RESERVED).

570. REVOCATION OF APPROVED STATUS.

In addition to any other Department administrative or civil action, the Administrator may withdraw or deny the approval of any livestock trader lot by notifying the dealer in writing when one or more of the following conditions exist: (6-1-07)T

01. Recordkeeping Requirements. There is evidence that the livestock dealer violated the recordkeeping requirements of this rule or animal health regulations. (6-1-07)T

02. Inability to Trace Animals. There is a repeated history of inability to trace to the affected, exposed, or reactor cattle that enter the livestock trader lot to the previous location and owner. (6-1-07)T

03. Violations. A livestock dealer violates any of the provisions of this chapter. (6-1-07)T

04. Dealer Request. The livestock dealer may have the approved status revoked by emptying the livestock trader lot and requesting in writing that the status be revoked. (6-1-07)T

05. Regulation Changes. Approved trader lot status may be revoked as required by changes in state or federal rules or regulations. (6-1-07)T

571. -- 989. (RESERVED).

990. PENALTIES.

Any person who violates any of the provisions of this chapter may be subject to the criminal and civil penalties provided in Title 25, Chapters 2, 6, and 35, Idaho Code. (6-1-07)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in this chapter shall be construed as requiring the Administrator to report minor violations when the Administrator believes that the public interest will be best served by suitable warnings or other administrative action. (6-1-07)T

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW
DOCKET NO. 02-0602-0701
NOTICE OF RULEMAKING - PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2007.

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

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

This change will update the incorporation by reference section to reflect the 2008 edition of the Official Publication of the Association of American Feed Control Officials (AAFCO), published in January or February each year. This is a standard reference manual for feed control officials for the registration of animal feeds.

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 24th day of May, 2007.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-0701

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2007~~8~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. (~~3-30-07~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (3-30-07)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0641-0701

NOTICE OF RULEMAKING - PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2007.

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

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

This change will update the incorporation by reference section to reflect the 2008 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), published in January or February each year and the 14th edition of the Merck Index. These are standard reference manuals for fertilizer control officials for the registration of soil and plant amendments.

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

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

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

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 24th day of May, 2007.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-0701

004. INCORPORATION BY REFERENCE.

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

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2007~~8~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. (~~3-30-07~~)()

02. The Merck Index. The “200~~7~~6 Merck Index,” 13~~4~~th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (~~4-6-05~~)()

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 30, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 33-105, Idaho Code, and Public Law 107-110, Section 111.b.3.C.ix.III.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2007.

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

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

In order to meet the requirements of the federal peer review recommendations related to the ISAT as developed and delivered by new contractor, the State Board of Education (SBOE) is required to develop achievement standards, including cut scores and performance level descriptors. Subsection 004.05 is being amended to incorporate a new set of achievement standards in mathematics, reading, language usage, and science in grades 3-8 and 10.

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

Because the federal peer review required the SBOE to develop new achievement standards, the Board was required to be in compliance with deadlines in amendments to governing law or federal programs.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this was a requirement of a federal peer review.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sandra DeKlotz at (208) 332-1580 or Margo Healy at (208) 332-1577.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 30th day of May, 2007.

Karen L. Echeverria
Deputy Director
State Board of Education
650 West State Street
Boise, ID 83720-0037
PO Box 83720-0037
(208) 332-1567 phone
(208) 334-2632 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0701

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule: (3-30-07)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education on November 1, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (3-30-07)

02. The Idaho English Language Development Standards. The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (3-30-07)

03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures. The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (3-30-07)

04. The Idaho English Language Assessment (IELA) Achievement Standards. The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (3-30-07)

05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards. Achievement Standards as adopted by the State Board of Education on ~~August 10, 2006~~ May 30, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. ~~(3-30-07)~~ (5-30-07)T

06. The Idaho Alternative Assessment Extended Content Standards. The Idaho Alternative Assessment Extended Content Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found at the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (11-1-06)T

07. The Idaho Alternative Assessment Extended Achievement Standards. Alternative Assessment Extended Achievement Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (11-1-06)T

IDAPA 15 - IDAHO COMMISSION ON AGING

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAMS

DOCKET NO. 15-0102-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-5312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2007.

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

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

The proposed rules are necessary to further define an "AP (Adult Protection) worker" and to reflect that definition in the rules regarding administrative requirements. Existing IDAPA 15.01.02.010.02 provides that only social workers licensed in the state of Idaho may act as AP workers. However, the issues faced by AP workers have become much more complex, often involving mental health issues and substance abuse issues. Expanding the definition of an "AP worker" to include other qualified individuals with relevant education and experience will provide an opportunity to establish an AP work force with a greater depth of experience to meet the challenges presented in today's AP investigations.

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

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

There is no fiscal impact to the general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the pressing need for an AP workforce qualified to conduct complex AP investigations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lois S. Bauer, Administrator at (208) 334-3833 x 228.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 16th day of May, 2007.

Lois S. Bauer
Administrator
Idaho Commission on Aging
3380 Americana Terrace, Ste. 120
Boise, Idaho 83706
(208) 334-3833 x 228 phone
(208) 334-3033 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0102-0701

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program." (7-1-98)

01. Adult Protection (AP). Statutory protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive services necessary to reduce or eliminate risk of harm. (7-1-98)

02. AP Supervisor. AAA employee responsible for overseeing the provision of AP services. The Supervisor's duties include the direct supervision of AP staff, case assignments, the monitoring of case loads and documentation, and the maintenance of cooperative relationships with other agencies, organizations or groups serving vulnerable "at risk" populations. The employee shall be a social worker licensed to practice in Idaho. (5-3-03)

03. AP Worker. AAA employee providing AP services. The worker's duties include the investigation of AP reports, client risk assessment and the development of plans for protective actions, supportive services and/or law enforcement referral. The employee shall be any one (1) of the following: ()

a. A social worker licensed to practice in Idaho; ~~(5-3-03)~~()

b. An individual with a BA or BS in a human services field or equivalent and at least two (2) years' experience in direct service delivery to vulnerable adults; or ()

c. An individual with an AA or AS degree and at least two (2) years' experience in law enforcement. ()

04. Serious Injury or Serious Imposition of Rights. A situation of substantiated abuse or neglect involving serious mental or physical injury, or exploitation. (5-3-03)

05. Protective Action Plan (PAP). An individual plan addressing the remedial, social, legal, medical, educational, mental health or other services available to reduce or eliminate the risk of harm to a vulnerable adult. A PAP may include a Supportive Services Plan as defined in IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program." (5-3-03)

06. Serious Physical Injury. Includes, but is not limited to: (3-30-01)

a. Severe skin bruising; (5-3-03)

b. Burns; (3-30-01)

c. Bone fractures; (3-30-01)

d. Decubitis ulcers; (5-3-03)

e. Internal injuries; (5-3-03)

f. Lacerations; (3-30-01)

g. Malnutrition resulting in serious medical consequences; (5-3-03)

h. Subdural hematoma; or (5-3-03)

i. Soft tissue swelling. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

021. ADMINISTRATIVE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, the ICOA shall administer AP services through contracts with AAAs. Each AAA shall adhere to all administrative requirements relating to AP programs and those enumerated in IDAPA 15.01.01, "Rules Governing Senior Services Program," unless a waiver is granted by the ICOA. (4-6-05)

01. Staffing. Each AAA shall provide sufficient staffing to respond to AP complaints within the statutory time frames set forth in Section 39-5304 (2), Idaho Code. (7-1-98)

02. Employee Qualifications. Each AAA shall adhere to standards set forth in rule for the education and licensing of AP program employees, including requirements for the AP Supervisor, AP Worker and Supportive Services Technician. ~~Any person hired after July 1, 1998, to fill the position of AP Supervisor or AP Worker shall be a social worker licensed to practice in Idaho.~~ (7-1-98)()

03. Program Reporting and Records. All AAA AP programs shall comply with the ICOA's requirements for reporting and investigative documentation, and shall utilize standardized forms provided by the ICOA. (7-1-98)

04. Conflict of Interest. AP program employees and their immediate families shall not hold a financial interest in agencies, organizations and entities providing care for vulnerable adults. (7-1-98)

05. Program Reviews. Upon prior notice and at reasonable intervals determined by ICOA, ICOA shall conduct on site program reviews of AAA AP programs. (7-1-98)

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-0700

NOTICE OF CORRECTION TO FINAL RULE

AUTHORITY: In compliance with Sections 67-5204, 67-5224, and 67-5291, Idaho Code, notice is hereby given that the Office of the Administrative Rules Coordinator is correcting a transcription error that occurred during the publication of the 2007 Idaho Administrative Code.

CORRECTION: This notice corrects a transcription error made during the publication of the 2007 Idaho Administrative Code. In Department of Health and Welfare Administrative Rule, IDAPA 16.03.04, "Rules Governing the Food Stamp Program in Idaho," promulgated under Docket No. 16-0304-0601, an incorrect effective date was inserted after Section 334 of the rule.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance of this correction notice:

In the 2007 Idaho Administrative Code, Section 334 of IDAPA 16.30.04, "Rules Governing the Food Stamp Program in Idaho," shows an incorrect effective date. As promulgated under Docket No. 16-0304-0601 and published in the January 3, 2007 Idaho Administrative Bulletin, Vol. 07-1, stated that the effective date of the rulemaking was to be July 1, 2007. Instead, the 2007 legislative adjournment date (*sine die*) was inserted. The Administrative Code has been corrected to show the correct, codified effective date in Section 334 of the rule. This correction will be made to the on line version of the Administrative Code and inserted into the Administrative Code when it becomes effective on July 1, 2007.

EFFECTIVE DATE: The effective date of the affected Section 334 is July 1, 2007 and is the original effective date specified in the pending rulemaking notice that was promulgated and adopted in compliance with Title 67, Chapter 52, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction notice, contact Dennis Stevenson at (208) 332-1820.

DATED this 19th day of June, 2007.

Dennis R. Stevenson
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Department of Administration
P.O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 332-1895

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO

DOCKET NO. 16-0308-0700

NOTICE OF CORRECTION TO FINAL RULE

AUTHORITY: In compliance with Sections 67-5204, 67-5224, and 67-5291, Idaho Code, notice is hereby given that the Office of the Administrative Rules Coordinator is correcting a transcription error that occurred during the publication of the 2007 Idaho Administrative Code.

CORRECTION: This notice corrects a transcription error made during the publication of the 2007 Idaho Administrative Code. In Department of Health and Welfare Administrative Rule, IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho," promulgated under Docket No. 16-0308-0601, an incorrect effective date was inserted after Section 207 of the rule.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance of this correction notice:

In the 2007 Idaho Administrative Code, Section 207 of IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho," shows an incorrect effective date. As promulgated under Docket No. 16-0308-0601 and published in the January 3, 2007 Idaho Administrative Bulletin, Vol. 07-1, the pending rulemaking notice stated that the effective date of the rulemaking was to be July 1, 2007. Instead the 2007 legislative adjournment date (*sine die*) was inserted. The Administrative Code has been corrected to show the correct, codified effective date in Section 207 of the rule. This correction will be made to the on line version of the Administrative Code and inserted into the Administrative Code when it becomes effective on July 1, 2007.

EFFECTIVE DATE: The effective date of the affected Section 207 is July 1, 2007 and is the original effective date specified in the pending rulemaking notice that was promulgated and adopted in compliance with Title 67, Chapter 52, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction notice, contact Dennis Stevenson at (208) 332-1820.

DATED this 19th day of June, 2007.

Dennis R. Stevenson
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Department of Administration
P.O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 332-1895

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221, Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, and 56-1004A, 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.

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

**Tuesday, July 17, 2007
2:00 p.m.
Division of Medicaid
Conference Room "D" East
3232 Elder Street, Boise, ID**

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

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

IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," previously contained 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 was removed and references were added to specific Department program rules to assure that all providers who provide HCBS 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.

This rulemaking was published as a temporary rule in the February 7, 2007, Idaho Administrative Bulletin, Vol. 07-2, pages 30 through 44.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the text changes are required to be in compliance with Section 56-1004A, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Jeanne Siroky, Division of Medicaid at (208) 364-1897.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, July 25, 2007.

DATED this 3rd day of May, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.
The temporary effective date is January 1, 2007.

The Temporary Rule was published in the Idaho Administrative Bulletin,
Volume 07-2, February 7, 2007, pages 30 through 44.

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." (3-19-07)

02. Availability to Work or Provide Service. (3-19-07)

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. (3-19-07)

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. (3-19-07)

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. (3-19-07)

04. Providers Subject to Criminal History and Background Check Requirements. The following providers are required to have a criminal history and background check: (3-19-07)

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. (~~3-19-07~~)(____)

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. ()

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

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. ()

be. 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 705.07~~ of these rules, and as provided in IDAPA 16.03.19, "Rules Governing Certified Family Homes." ~~(3-19-07)~~()

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. ()

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

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

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. (3-19-07)

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

kl. 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. (3-19-07)

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. (3-19-07)

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. (3-19-07)

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

go. 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. (3-19-07)

hp. 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. ~~(3-19-07)~~()

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. ()

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. (3-19-07)

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. ()

(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)." (3-19-07)

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: (3-19-07)

a. The RMS finds that the participant is capable of being maintained safely and effectively in his own home or personal residence using PCS. (3-19-07)

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; (3-19-07)

c. The RMS reviews the documentation for medical necessity; and (~~3-19-07~~)()

d. The participant has a plan of care; and (~~3-19-07~~)()

e. ~~Services are ordered by a physician or authorized provider.~~ (~~3-19-07~~)

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. (3-19-07)

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. (3-19-07)

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.~~ (~~3-19-07~~)()

b. The medical redetermination must assess the following factors: (3-19-07)

i. The participant's continued need for PCS; (3-19-07)

ii. Discharge from PCS; and (3-19-07)

iii. Referral of the participant from PCS to a nursing facility. (3-19-07)

(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. (3-19-07)

- a. The plan of care for participants who live in their own homes is based on: (3-19-07)
 - i. The physician's or authorized provider's information if applicable; ~~(3-19-07)~~()
 - 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 (3-19-07)
 - iii. Information obtained from the participant. (3-19-07)
- 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. (3-19-07)
- 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. (3-19-07)

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. (3-19-07)

- a. Oversight must include all of the following: (3-19-07)
 - i. Assistance in the development of the written plan of care; (3-19-07)
 - ii. Review of the treatment given by the personal assistant through a review of the participant's PCS record as maintained by the provider; (3-19-07)
 - iii. Reevaluation of the plan of care as necessary; and (3-19-07)
 - 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. (3-19-07)
- 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: (3-19-07)
 - 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; (3-19-07)
 - 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; (3-19-07)
 - iii. Reevaluation of the plan of care as necessary, but at least annually; and (3-19-07)
 - 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. (3-19-07)

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. (3-19-07)

- 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: (3-19-07)

- i. Date and time of visit; (3-19-07)
- ii. Length of visit; (3-19-07)
- iii. Services provided during the visit; and (3-19-07)
- iv. Documentation of any changes noted in the participant's condition or any deviations from the plan of care. (3-19-07)

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. (3-19-07)

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. (3-19-07)

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. (3-19-07)

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." (3-19-07)

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." (3-19-07)

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. (3-19-07)

(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. (3-19-07)

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. (3-30-07)

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: (3-19-07)

- a.** To directly assure compliance with legal requirements related to employment of waiver service providers; (3-19-07)

- b.** To offer supportive services to enable participants or families consumers to perform the required employer tasks themselves; (3-19-07)
- c.** To bill the Medicaid program for services approved and authorized by the Department; (3-19-07)
- d.** To collect any participant participation due; (3-19-07)
- e.** To pay personal assistants and other waiver service providers for service; (3-19-07)
- f.** To perform all necessary withholding as required by state and federal labor and tax laws, rules and regulations; (3-19-07)
- g.** To offer a full range of services and perform all services contained in a written agreement between the participant and the provider; (3-19-07)
- h.** Make referrals for PCS eligible participant for service coordination when a need for such services is identified; and (3-19-07)
- i.** Obtain such criminal background checks and health screens on new and existing employees of record and fact as required. (3-19-07)

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. (3-19-07)

- a.** A waiver provider can not be a relative of any participant to whom the provider is supplying services. (3-19-07)
- b.** For the purposes of Section 329 of these rules, a relative is defined as a spouse or parent of a minor child. (3-19-07)
- 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: ()
 - i.** Companion services; ()
 - ii.** Chore services; and ()
 - iii.** Respite care services. ()

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. (3-19-07)

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. (3-19-07)

- 06. Psychiatric Consultation Provider Qualifications.** Psychiatric Consultation Providers must have: (3-19-07)
 - a.** A master's degree in a behavioral science; (3-19-07)
 - b.** Be licensed in accordance with state law and regulations; or (3-19-07)

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. ~~(3-19-07)~~()

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." ()

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. (3-19-07)

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. (3-19-07)

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." ~~(3-19-07)~~()

10. Home Delivered Meals. Providers must be a public agency or private business and must be capable of: (3-19-07)

a. Supervising the direct service; (3-19-07)

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; (3-19-07)

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; (3-19-07)

d. Maintaining documentation that the meals served are made from the highest USDA grade for each specific food served; and (3-19-07)

e. Being inspected and licensed as a food establishment by the district health department. (3-19-07)

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. (3-19-07)

12. Adult Day Care. Facilities that provide adult day care must be maintained in safe and sanitary manner. (3-30-07)

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. (3-19-07)

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. (3-30-07)

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. ()

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. (3-19-07)

14. Assisted Transportation Services. See Subsection 329.03 of this rule for provider qualifications. (3-19-07)

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." ~~(3-19-07)~~()

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." ~~(3-19-07)~~()

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. (3-19-07)

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: (3-30-07)

a. Direct service staff must meet the following minimum qualifications: (3-30-07)

i. Be at least eighteen (18) years of age; (3-30-07)

ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to a plan of care; (3-30-07)

iii. Have current CPR and First Aid certifications; (3-30-07)

iv. Be free from communicable diseases; (3-30-07)

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. (3-30-07)

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;" ~~(3-30-07)~~()

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. (3-30-07)

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. (3-30-07)

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. (3-30-07)

d. Prior to delivering services to a participant, direct service staff must complete an orientation program. The orientation program must include the following subjects: (3-30-07)

- i. Purpose and philosophy of services; (3-19-07)
- ii. Service rules; (3-19-07)
- iii. Policies and procedures; (3-19-07)
- iv. Proper conduct in relating to waiver participants; (3-19-07)
- v. Handling of confidential and emergency situations that involve the waiver participant; (3-19-07)
- vi. Participant rights; (3-19-07)
- vii. Methods of supervising participants; (3-19-07)
- viii. Working with individuals with traumatic brain injuries; and (3-19-07)
- ix. Training specific to the needs of the participant. (3-19-07)

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: (3-30-07)

- i. Instructional techniques: Methodologies for training in a systematic and effective manner; (3-30-07)
- ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (3-30-07)
- iii. Feeding; (3-30-07)
- iv. Communication; (3-30-07)
- v. Mobility; (3-30-07)
- vi. Activities of daily living; (3-30-07)
- vii. Body mechanics and lifting techniques; (3-30-07)
- viii. Housekeeping techniques; and (3-30-07)
- ix. Maintenance of a clean, safe, and healthy environment. (3-30-07)

f. The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed; and (3-30-07)

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. (3-30-07)

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." (3-30-07)()

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." (3-30-07)()

21. Behavior Consultation or Crisis Management Service Providers. Behavior consultation or crisis management providers must meet the following: (3-30-07)

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; (3-30-07)

b. Be a licensed pharmacist; or (3-30-07)

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 (3-30-07)

d. Take a traumatic brain injury training course approved by the Department. (3-30-07)

e. Emergency back-up providers must also meet the minimum provider qualifications under residential habilitation services. (3-30-07)

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." ()

(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. (3-19-07)

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: (3-19-07)

a. Direct service staff must meet the following minimum qualifications: (3-19-07)

i. Be at least eighteen (18) years of age; (3-19-07)

ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to an plan of service; (3-19-07)

- iii. Have current CPR and First Aid certifications; (3-19-07)
- iv. Be free from communicable diseases; (3-19-07)
- 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. (3-19-07)
- vi. Residential habilitation service providers who provide direct care or services must ~~S~~satisfactorily complete a criminal background check in accordance with IDAPA 16.05.06, “Rules Governing Mandatory Criminal History Checks.” ~~(3-19-07)~~()
- vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. (3-19-07)
- 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. (3-19-07)
- c.** Prior to delivering services to a participant, direct service staff must complete an orientation program. The orientation program must include the following subjects: (3-19-07)
 - i. Purpose and philosophy of services; (3-19-07)
 - ii. Service rules; (3-19-07)
 - iii. Policies and procedures; (3-19-07)
 - iv. Proper conduct in relating to waiver participants; (3-19-07)
 - v. Handling of confidential and emergency situations that involve the waiver participant; (3-19-07)
 - vi. Participant rights; (3-19-07)
 - vii. Methods of supervising participants; (3-19-07)
 - viii. Working with individuals with developmental disabilities; and (3-19-07)
 - ix. Training specific to the needs of the participant. (3-19-07)
- 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: (3-19-07)
 - i. Instructional techniques: Methodologies for training in a systematic and effective manner; (3-19-07)
 - ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (3-19-07)
 - iii. Feeding; (3-19-07)
 - iv. Communication; (3-19-07)
 - v. Mobility; (3-19-07)
 - vi. Activities of daily living; (3-19-07)

- vii. Body mechanics and lifting techniques; (3-19-07)
 - viii. Housekeeping techniques; and (3-19-07)
 - ix. Maintenance of a clean, safe, and healthy environment. (3-19-07)
 - e. The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed. (3-19-07)
 - 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. (3-19-07)
- 02. Chore Services.** Providers of chore services must meet the following minimum qualifications: (3-19-07)
- a. Be skilled in the type of service to be provided; and (3-19-07)
 - b. Demonstrate the ability to provide services according to a plan of service. (3-19-07)
 - 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." ()
- 03. Respite.** Providers of respite care services must meet the following minimum qualifications: (3-19-07)
- 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; (3-19-07)
 - b. Have received care giving instructions in the needs of the person who will be provided the service; (3-19-07)
 - c. Demonstrate the ability to provide services according to an plan of service; (3-19-07)
 - d. Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; (3-19-07)
 - e. Be willing to accept training and supervision by a provider agency or the primary caregiver of services; and (3-19-07)
 - f. Be free of communicable diseases. (3-19-07)
 - 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." ()
- 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." (3-19-07)()
- 05. Transportation.** Providers of transportation services must: (3-19-07)
- a. Possess a valid driver's license; and (3-19-07)

- b.** Possess valid vehicle insurance. (3-19-07)
- 06. Environmental Accessibility Adaptations.** Environmental accessibility adaptations services must: (3-19-07)
- a.** Be done under a permit, if required; and (3-19-07)
- b.** Demonstrate that all modifications, improvements, or repairs are made in accordance with local and state housing and building codes. (3-19-07)
- 07. Specialized Equipment and Supplies.** Specialized Equipment and Supplies purchased under this service must: (3-19-07)
- a.** Meet Underwriter's Laboratory, FDA, or Federal Communication Commission standards where applicable; and (3-19-07)
- 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. (3-19-07)
- 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. (3-19-07)
- 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: (3-19-07)
- 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; (3-19-07)
- 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; (3-19-07)
- 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; (3-19-07)
- d.** Provide documentation of current driver's license for each driver; and (3-19-07)
- e.** Must be inspected and licensed as a food establishment by the District Health Department. (3-19-07)
- 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. (3-19-07)
- 11. Behavior Consultation or Crisis Management.** Behavior Consultation or Crisis Management Providers must meet the following: (3-19-07)
- 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 (3-19-07)
- 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 (3-19-07)
- c.** Be a licensed pharmacist; or (3-19-07)

- d.** Be a Qualified Mental Retardation Professional (QMRP). (3-19-07)
- e.** Emergency back-up providers must meet the minimum residential habilitation provider qualifications described under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (3-19-07)
- 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." (____)
- 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: (3-19-07)
- a.** Demonstrate the ability to communicate and deal effectively, assertively, and cooperatively with a variety of people; (3-19-07)
- b.** Be a high school graduate, or have a GED or demonstrate the ability to provide services according to the plan of service; (3-19-07)
- c.** Be free from communicable disease; (3-19-07)
- 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"; ~~(3-19-07)~~(____)
- e.** Demonstrate knowledge of infection control methods; and (3-19-07)
- f.** Agree to practice confidentiality in handling situations that involve waiver participants. (3-19-07)
- 13. Service Supervision.** The plan of service which includes all waiver services is monitored by the plan monitor or targeted service coordinator. (3-19-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.17 - MEDICARE/MEDICAID COORDINATED PLAN BENEFITS
DOCKET NO. 16-0317-0701 (NEW CHAPTER)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221, Idaho Code, notice is hereby given this agency has adopted a proposed rule. The action is authorized pursuant to Section 56-202(b), Idaho Code; Sections 56-251(2)(c) and 56-255(4), Idaho Code; the Medicare Prescription Drug Improvement and Modernization Act of 2003, P.L. 108-173, Section 231; and HCR 49 (2006).

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Wednesday, July 18, 2007 5:00 p.m. DHW - Region IV Office 1720 Westgate Drive Suite D, Room 119 Boise, ID	Wednesday, July 18, 2007 7:00 p.m. Idaho Falls Public Library 457 Broadway Idaho Falls, ID	Thursday, July 19, 2007 7:00 p.m. DHW - Region I Office 1120 Ironwood Drive, Suite 102 Coeur d'Alene, ID
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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The 2006 Legislature directed the Department to increase its coordination with Medicare as part of the overall strategy for improving Medicaid efficiency and saving Medicaid funds. HCR 49 encouraged the Department to coordinate with Medicare in financing prescription drug benefits and other Medicaid-covered services for individuals eligible for and enrolled in both Medicare and Medicaid (“dually eligible”).

This new chapter of rules implements the intent of HCR 49 and the corresponding benefit package approved by the Centers for Medicare/Medicaid Services (CMS) effective July 1, 2006, as part of Idaho's Medicaid Modernization plan. This benefit package coordinates and integrates benefits for individuals eligible for both Medicare and Medicaid. It is one of the three benefit packages that comprise Idaho's Medicaid Modernization plan. (The Basic and the Enhanced plans are the other two benefit packages.)

Individuals who opt into the Medicare/Medicaid Coordinated Plan will receive an integrated benefits program offered by a participating Medicare Advantage Organization (MAO). Medicaid will pay the premium for the integrated Medicare Advantage Plan* offered by a participating MAO. The integrated Medicare Advantage Plan will cover some services usually covered by Medicaid such as: primary care case management, prescribed drugs not covered by Medicare Part D, and dentures.

*Medicare Advantage Plans are health plans approved by Medicare but run by private companies referred to in this chapter as “MAOs.”

This docket was published as temporary rule in the April 4, 2007, Idaho Administrative Bulletin, Vol. 07-4, pages 19 through 25, with a temporary effective date of April 1, 2007.

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.

For SFY 2007, a total cost of \$128,000 is estimated for changes to Medicaid's automated system to support implementation of the coordinated plan benefit package. The cost to the State General Fund is estimated to be

\$12,800.

It is estimated that implementation of this benefit package will result in a savings of approximately \$336,651 in SFY 2008, \$743,501 in SFY 2009, and \$1,231,526 in SFY 2010. No cost savings are anticipated for SFY 2007 because this benefit package will be implemented late in the fiscal year (April 2007).

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this new chapter of rule was written to implement: (1) legislation passed during the 2006 legislative session, and, (2) a benefit package approved by CMS as part of Idaho's Medicaid Modernization plan.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sheila Pugatch at (208) 364-1817.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, July 25, 2007.

DATED this 3rd day of May, 2007.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

**This docket has been previously published as a Temporary Rule.
The temporary effective date is April 1, 2007.**

**The original text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 07-4, April 4, 2007,
pages 19 through 25.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0317-0701

IDAPA 16, TITLE 03, CHAPTER 17

16.03.17 - MEDICARE/MEDICAID COORDINATED PLAN BENEFITS

000. LEGAL AUTHORITY.

The Department is authorized to promulgate these rules under Sections 56-202(b), 56-251(2)(c), and 56-255(4), Idaho Code, the Medicare Prescription Drug Improvement and Modernization Act of 2003, P.L. 108-173, Section 231, and Section 1937 of the Social Security Act. ()

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits." ()

02. Scope. These rules cover the Medicaid benefit plan option that coordinates and integrates health plan benefits for individuals who are eligible for and enrolled in both Medicare and Medicaid. This package of benefits is referred to as the Medicare/Medicaid Coordinated Plan (MMCP). These rules cover eligibility, participant responsibility, general provider requirements, and the range of services covered under the MMCP. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection at the location identified under Subsection 005.06 of these rules and in accordance with Section 006 of these rules. ()

003. ADMINISTRATIVE APPEALS.

01. Administrative Appeals for Medicaid-Only Services. Administrative appeals to Medicaid are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ()

02. Medicare Advantage Organization Appeals and Grievance Processes. Appeals and grievances arising from MMCP services provided by participating MAOs must be filed with the Medicare Advantage Organization that enrolled the participant in the MMCP. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference in these rules. ()

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

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

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

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

04. Telephone. (208) 334-5500. ()

05. Internet Website Address. The website address is: <http://www.healthandwelfare.idaho.gov>. ()

06. Division of Medicaid. The Division of Medicaid is located at 3232 Elder Street, Boise, Idaho 83705; Phone: (208) 334-5747. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

01. Confidentiality of Records. Information received by the Department is subject to the provisions of IDAPA 16.05.01, "Use and Disclosure of Department Records," for the following records. ()

a. A provider's reimbursement records. ()

b. An individual's records covered by these rules. ()

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, ()

when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

007. (RESERVED).

008. AUDIT, INVESTIGATION AND ENFORCEMENT.

In addition to any actions specified in these rules, the Department may audit, investigate, and take enforcement action under the provisions of IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." ()

009. (RESERVED).

010. DEFINITIONS.

For the purposes of this chapter of rules, the following definitions are used: ()

01. Capitated Payment. The amount paid to a Medicare Advantage Organization for Medicare/Medicaid Coordinated Plan services as expressed in a per member per month amount. ()

02. Department. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. ()

03. Dual-Eligible. Individuals who meet all the eligibility requirements under Section 100 of these rules. ()

04. Evidence of Coverage. The Medicare Advantage Plan contract the MAO has with the participant. This document explains the covered services, defines the Medicaid Advantage Plan obligations, and explains the participant's rights and responsibilities. ()

05. Medicare. Medicare is a federal health insurance program for people age sixty-five (65) or older, people under age sixty-five (65) with certain disabilities, and people of all ages with End-Stage Renal Disease. It has three (3) types of coverage: Part A Hospital Insurance, Part B Medical Insurance, and Prescription Drug Coverage. It is administered under Title XVIII of the Social Security Act. ()

06. Medicare Advantage Organizations (MAOs). Insurance companies approved by the Centers for Medicare/Medicaid Services to offer Medicare Advantage Plans in accordance with Title XVIII, Part C, of the Social Security Act and 42 CFR, Part 422, and who are Medicaid providers authorized to enroll participants in the Medicare/Medicaid Coordinated Plan. ()

07. Medicare Advantage Plan. A health plan approved by Medicare but offered by a private company that contracts with Medicare to provide Medicare Part A, Part B, and Part D benefits. The Medicare Advantage Plan under this chapter is a special integrated plan offered by participating MAOs that includes the services listed under Section 301 of these rules. ()

08. Medicare/Medicaid Coordinated Plan (MMCP). Medical assistance in which Medicaid purchases services from an MAO and provides other Medicaid-only services covered under the Medicaid Enhanced Plan in accordance with these rules. ()

09. Medicaid. Idaho's Medical Assistance program administered under Title XIX of the Social Security Act. ()

10. Medicaid Basic Plan. The medical assistance benefits included under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." ()

11. Medicaid Enhanced Plan. The medical assistance benefits included under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ()

12. Medical Assistance. Payments made by Medicaid. ()

011 -- 099. (RESERVED).

**GENERAL PARTICIPANT PROVISIONS
(Sections 100 through 199)**

100. MEDICARE/MEDICAID COORDINATED PLAN (MMCP) - PARTICIPANT ELIGIBILITY.
To be eligible to select the MMCP, the participant must meet the following criteria. ()

01. Medicare Eligibility. The participant must be eligible for and enrolled in both Medicare Part A and Medicare Part B and must not have Medicare eligibility due to End-Stage Renal Disease (ESRD). ()

02. Medicaid Eligibility. The participant must be eligible for medical assistance under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)." The individual's Medicaid eligibility must not be based solely on the requirements found under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," Section 802, "Women Diagnosed With Breast or Cervical Cancer." ()

03. Age. The participant must be age twenty-one (21) or older. ()

101. MEDICARE/MEDICAID COORDINATED PLAN - PARTICIPANT ENROLLMENT.
To receive services under the MMCP, the participant must select and enroll with an MAO. ()

102. MEDICARE/MEDICAID COORDINATED PLAN - PARTICIPANT RESPONSIBILITIES.
Participants who select the MMCP must comply with the following requirements: ()

01. Selecting the Medicare/Medicaid Coordinated Plan. The participant must contact a participating MAO and request to sign up for the MMCP. Participation in the MMCP begins the month following the month the participant signs an application for the Medicare Advantage Plan that includes MAO-covered services listed under Section 301 of these rules. ()

02. Compliance with Medicare Advantage Organization Requirements. The participant must comply with all of the requirements of the participating MAO, including the requirement to pay for services provided by out-of-network providers. Out-of-network providers are those who do not have a contract with the MAO with which the participant is enrolled. ()

03. Notification to the Provider. ()

a. The participant must present his Medicare Advantage card when seeking any of the services listed under Section 301 of these rules. ()

b. The participant must present his Medicaid card when seeking any of the Medicaid-covered services listed under Section 302 of these rules. ()

04. Termination of the Medicare/Medicaid Coordinated Plan. The participant can terminate his MMCP at any time. Coverage will continue until the end of the month in which the termination date falls. The participant will subsequently be automatically reenrolled in the Medicaid benefit plan, either Basic or Enhanced, in which they were initially enrolled. ()

103. -- 199. (RESERVED).

GENERAL PROVIDER PROVISIONS
(Sections 200 Through 299)

200. PROVIDER APPLICATION PROCESS.

A prospective provider may apply for a provider number with the Department as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 200. ()

201. -- 204. (RESERVED).

205. AGREEMENTS WITH PROVIDERS.

All provisions of IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, apply to providers of services under the MMCP. ()

206. -- 209. (RESERVED).

210. CONDITIONS FOR PAYMENT.

All provisions of IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 210, apply to providers of services under the MMCP. ()

211. -- 299. (RESERVED).

COVERED SERVICES
(Sections 300 through 303)

300. MEDICARE/MEDICAID COORDINATED PLAN - COVERAGE AND LIMITATIONS.

01. MMCP-Covered Services. The MMCP-covered services include the following: ()

a. MAO-Covered Services. Services covered by the MAO as listed under Section 301 of these rules. The MAO may limit or expand the scope of services as defined in the "Evidence of Coverage." ()

b. Medicaid-Only Services. Services listed under Section 302 of these rules provided by Medicaid providers that are not MAOs. ()

02. Services Excluded from the MMCP. Services not listed under Section 301 or under Section 302 of these rules are not covered under the MMCP. ()

03. Premiums and Cost-Sharing. The participant will not pay for any premiums or cost-sharing when covered under the MMCP, except as provided under Subsection 102.02 of these rules. ()

301. MAO-COVERED SERVICES.

Under the MMCP, an MAO must cover, at a minimum, the following services: ()

01. Inpatient Hospital Services. ()

02. Outpatient Hospital Services. ()

03. Emergency Room Services. ()

04. Ambulatory Surgical Center Services. ()

05. Physician Services. ()

- 06. Other Practitioner Services (Nurse Practitioner, Nurse Midwife, Chiropractor, Podiatrist, Physician Assistant). ()
- 07. Prevention Services (Adult Physicals, Screening Services). ()
- 08. Laboratory and Radiological Services. ()
- 09. Prescribed Drugs (Medicare-Covered Drugs). ()
- 10. Family Planning Services. ()
- 11. Inpatient Psychiatric Services. ()
- 12. Outpatient Mental Health Services. ()
- 13. Home Health Care. ()
- 14. Therapy Services. ()
- 15. Speech, Hearing and Language Services. ()
- 16. Medical Equipment and Supplies. ()
- 17. Prosthetic Devices. ()
- 18. Vision Services. ()
- 19. Dental Services. ()
- 20. Primary Care Case Management. ()
- 21. Prevention and Health Assistance Benefits. ()
- 22. Medicare Part D Excluded Drugs Covered by Medicaid. ()
- 23. Specialized Medical Equipment and Supplies. ()
- 24. Dentures. ()
- 25. Rural Health Clinic Services. ()
- 26. Federally Qualified Health Center (FQHC) Services. ()
- 27. Indian Health Clinic Services. ()

302. MEDICAID-ONLY SERVICES.

Medicaid will cover the following services only if the MAO's "Evidence of Coverage" does not cover them: ()

- 01. Psychosocial Rehabilitation (PSR). IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 123 through 146. ()
- 02. Nursing Facility Services. IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 220 through 296. ()
- 03. Personal Care Services (PCS). IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections ()

300 through 308. ()

04. Non-Emergency Transportation Services. IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Sections 870 through 875. ()

05. Home and Community Based (HCBS) Waiver Services. IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 326 and 703. ()

06. Intermediate Care Facility Services for the Mentally Retarded (ICF/MR). IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 581 through 632. ()

07. Developmental Disability Agency (DDA) Services. IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 650 through 656. ()

303. MEDICARE/MEDICAID COORDINATED PLAN BENEFITS - PROVIDER REIMBURSEMENT. Each provider must apply for and be approved as a Medicaid provider under the MMCP before it can be reimbursed. ()

01. Medicaid-Only Service Providers. Medicaid-only service providers are reimbursed according to the reimbursement methodology in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” related to the Medicaid-only service. Medicaid-only service providers are also subject to the General Provider Provisions under IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” ()

02. Medicare Advantage Organizations. Each MAO will be paid a monthly per member per month (PMPM) rate that is defined in the Medicaid Provider Agreement. The MAO is responsible for submitting a monthly invoice to the Department in the Department-specified electronic format. This invoice must include the name of the Medicaid participant, the Medicaid ID number, and the time frame of coverage. The PMPM rate paid to the MAO includes the participant's Medicare premium, any cost-sharing required by the MAO, and the services listed under Section 301 of these rules. ()

304. -- 999. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.24.01 - RULES OF THE IDAHO BOARD OF NATUROPATHIC MEDICAL EXAMINERS

DOCKET NO. 24-2401-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 54-5109, Idaho Code.

MEETING SCHEDULE: A public meeting(s) on the negotiated rulemaking will be held in the following cities: Boise, Coeur d'Alene, Twin Falls, and Idaho Falls.

**Information on date, time and location is available on our website
at http://ibol.idaho.gov/NAT/General/nat_meetings.htm.**

PRELIMINARY DRAFT: A preliminary draft of the rule can be obtained by contacting Cherie Simpson at csimpson@ibol.idaho.gov or by phone at (208) 334-3233 or by accessing the following web address:

http://ibol.idaho.gov/NAT/General/nat_meetings.htm

METHOD OF PARTICIPATION: Naturopathic Physicians and others wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking;
3. Submit written recommendations and comments to the street address or the e-mail address listed below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Due to legislation completed in 2005 of Title 54, Chapter 51 which allows the licensure and regulation of Naturopathic Physicians, the board must promulgate rules.

During this negotiated rulemaking process, we plan to provide contact information, definitions, application, scope of practice, special competency certification, qualifications, formulary council, define approved schools, define approved examination, define licensure by endorsement, define continuing education and define additional grounds for disciplinary action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the negotiated rule, contact Cherie Simpson at csimpson@ibol.idaho.gov, (208) 334-3233.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 5th day of June, 2007.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 / (208)334-3945 fax

IDAPA 30 - IDAHO STATE LIBRARY

30.01.01 - RULES OF THE IDAHO STATE LIBRARY GOVERNING THE USE OF STATE LIBRARY MATERIALS AND SERVICES

DOCKET NO. 30-0101-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-2503, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2007.

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

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

This entire chapter of rules is being repealed. It will be replaced by a completely rewritten chapter proposed under Docket No. 30-0101-0702 that is being published in this Bulletin.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to the publication of the proposed rule because the existing chapter of rules is being repealed as a part of the promulgation process for the rewrite. The entire chapter is being rewritten based on changes to Title 33, Chapter 25, Idaho Code, made by the 2006 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ann Joslin, State Librarian, at (208) 334-2150.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 30th day of May, 2007.

Ann Joslin
State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720
Boise, Idaho 83702
(208) 334-2150 phone
(208) 334-4016 fax

IDAPA 30.01.01 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 30 - COMMISSION FOR LIBRARIES
30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING
THE USE OF COMMISSION SERVICES

DOCKET NO. 30-0101-0702 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-2503, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2007.

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

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

These rules are being proposed to implement the provisions of Title 33, Chapter 25, Idaho Code, amended by the 2006 Idaho Legislature. The proposed changes will provide rules for the conduct of the business of the Commission, provide location and mailing information, define terms, set out the requirements for certain grant programs, and establish criteria for requests for exemption from proposed library districts.

The current chapters of rules relating to the former Idaho State Library will be repealed.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to the publication of the proposed rule because rule changes are being made based on changes to Title 33, Chapter 25, Idaho Code, made by the 2006 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ann Joslin, State Librarian, at (208) 334-2150.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 30th day of May, 2007.

Ann Joslin, State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720, Boise, Idaho 83702
(208) 334-2150 phone / (208) 334-4016 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0702

IDAPA 30
TITLE 01
CHAPTER 01

**30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING
THE USE OF COMMISSION SERVICES**

000. LEGAL AUTHORITY.

In accordance with Section 33-2503(2), Idaho Code, the Board of Library Commissioners shall promulgate rules for the proper conduct of business for the Idaho Commission for Libraries. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 30.01.01, "Rules of the Idaho Commission for Libraries Governing the Use of Commission Services." ()

02. Scope. These rules govern the use of the Idaho Commission for Libraries services. ()

002. WRITTEN INTERPRETATIONS.

This Commission may have 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 Commission office. ()

003. ADMINISTRATIVE APPEALS.

Appeals from the agency's denial of eligibility for LSTA grant funding or denial of a request for exemption from criteria for a proposed library district shall be governed by the provisions of the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

01. Federal Law. The Library Services and Technology Act, 20 U.S.C.A. Section 9121, et. seq., as set forth in Title II of the Museum and Library Services Act, Public Law 108-81, effective September 25, 2003. Copies of the Library Services and Technology Act are available at the offices of the Idaho Commission for Libraries. ()

02. Application Process Guides. Grants may be made with monies pursuant to procedures set forth in the respective LSTA Guide. Copies of the Guides are available on the Commission's website or at the offices of the Idaho Commission for Libraries. ()

a. The FY2006 LSTA Guide, effective May 2005. ()

b. The FY2007 LSTA Guide, effective September 2006. ()

c. The FY2008 LSTA Guide, effective August 2007. ()

005. COMMISSION OFFICE LOCATION, MAILING ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, ELECTRONIC ADDRESS, AND OFFICE HOURS.

01. Street Address. The offices of the Commission are located at 325 W. State Street, Boise, Idaho. ()

83702. **02. Mailing Address.** The mailing address of the Commission is 325 W. State Street, Boise, Idaho ()
- 03. Telephone Number.** The telephone number of the Commission is (208) 334-2150. ()
- 04. Facsimile.** The facsimile number of the Commission is (208) 334-4016. ()
- 05. Electronic Address.** The Commission's web address is <http://libraries.idaho.gov>. ()
- 06. Hours.** The Commission office hours are from 8 a.m. until 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ()

006. FILING OF DOCUMENTS.

All documents, applications, correspondence, or other written materials that are intended to be acted upon by the Commission must be mailed to the Commission at the mailing address set forth in Section 005 of these rules. The original of any documents, applications, correspondence, or other written materials that are submitted to the Commission using its facsimile number or sent via electronic mail must be deposited into the U.S. Mail, postage prepaid, addressed to the Commission, that same day. ()

007. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). ()

008. -- 010. (RESERVED).

011. DEFINITIONS.

- 01. Academic Library.** A library organized and operating as part of an institution of higher education. ()
- Code. **02. Board.** The Idaho Board of Library Commissioners as established in Title 33, Chapter 25, Idaho Code. ()
- Code. **03. Commission.** The Idaho Commission for Libraries as established in Title 33, Chapter 25, Idaho Code. ()
- 04. Library Clientele.** The clientele of a library is dependent upon the type of library: ()
- a.** Academic library. The students, staff, and faculty of the academic institution. ()
- b.** Public library. The residents of the library's legal service area, as defined by the boundaries of its jurisdiction, and any non-residents as further defined by the library board's policies and contracts. ()
- c.** School library. The students, staff, and faculty of the school or school district. ()
- d.** Special library. The patrons of the individual library and/or its parent institution. ()
- 05. Library Consortia.** A local, regional, statewide, or interstate cooperative association of library entities which provides for the systematic and effective coordination of the resources of academic, public, school, and/or special libraries for improved services for the clientele of the member library entities. ()
- 06. Public Library.** A library organized and operating in compliance with Title 33, Chapter 26 or Title 33, Chapter 27, Idaho Code. ()
- 07. School Library.** A library organized and operating as part of a primary and/or secondary school or school district. Also called a school library media center. ()

08. Special Library. A library that is not an academic, public, or school library, usually organized to meet a specialized mission and operating with a specialized collection, and/or to serve a specialized clientele. ()

012. ABBREVIATIONS.

01. LiLI. Libraries Linking Idaho. ()

02. LSTA. Library Services and Technology Act. ()

013. -- 019. (RESERVED).

020. LSTA (LIBRARY SERVICES AND TECHNOLOGY ACT) GRANT PROGRAM - GENERAL ELIGIBILITY REQUIREMENTS - ADDITIONAL ELIGIBILITY REQUIREMENTS.

01. General Eligibility Requirements for Public, School, Academic, and Special Library Applicants. In addition to applicant-specific criteria set forth in Subsections 020.02 and 020.03 of these rules, any LSTA grant program library applicant or participant must meet the following eligibility requirements: ()

a. The library is, or is part of, a non-profit institution or agency that receives substantial support from public tax revenues. ()

b. The library has a current, written long range or strategic plan that is available in the library for review. ()

c. The library consists of a specific, permanent space exclusively designated for providing library services. ()

d. The library collects, provides, and coordinates access to library materials. ()

e. The library serves its clientele free of charge. ()

f. The library maintains regular and published hours of operation. ()

i. Academic library: minimum of seventy-five (75) hours per week while school is in session. ()

ii. Public library: minimum of twelve (12) hours per week, including some evening or weekend hours. ()

iii. School library: minimum of six (6) hours per day while school is in session. ()

iv. Special library: dependent upon mission. ()

g. The library employs an administrator who is responsible for the daily operations of the library. ()

h. The library has at least one (1) paid staff member on duty in the library during the hours the library is open. ()

i. The library has an operable phone within the place set aside for the library and an e-mail address. ()

j. The library loans its materials to other Idaho libraries without charge. ()

k. The library provides training opportunities for its staff. ()

l. The library offers computer access, including Internet access, for its clientele, and has a policy that

addresses acceptable use. ()

02. Additional Eligibility Requirements for School and Academic Libraries. In addition to the criteria set forth in Subsection 020.01 of these rules, any LSTA grant program school or academic library applicant or participant must also meet the following requirements: ()

a. The school is on the Idaho State Department of Education’s current Accreditation Summary Report. ()

b. The school district employs a certificated media generalist. ()

c. The academic institution is accredited by the Northwest Commission on Colleges and Universities. ()

03. Additional Eligibility Requirements for Public Libraries. In addition to the criteria set forth in Subsection 020.01 of these rules, any LSTA grant program public library applicant or participant must also meet the following requirements: ()

a. The library is established and operating in compliance with Title 33, Chapter 26 or Title 33, Chapter 27, Idaho Code. ()

b. The library does not charge a fee to any resident of its legal service area for any basic library service. Basic library services include: ()

i. Access during posted operating hours to library collections and the Internet. ()

ii. Circulation of library materials, regardless of format. ()

iii. Access to interlibrary loan services. Postage charges for interlibrary loans are assumed by the library, not the user. ()

iv. Reference services, regardless of format. ()

c. The library has a completed “Idaho Public-District Library Annual Statistical Report” for the preceding fiscal year accepted by, and on file at, the Commission for Libraries. ()

d. The library maintains a website that provides current information about, or access to, its services including: ()

i. Library name. ()

ii. Library address - both mailing address and street address, if different. ()

iii. Library phone number. ()

iv. E-mail address and/or contact form. ()

v. Hours of operation. ()

vi. Names of library board members. ()

vii. Link to online catalog, if the library has one. ()

viii. Link to the LiLI Portal or to the LiLI Databases and the LiLI Unlimited statewide catalog with the “funded by LiLI” icon. ()

ix. Description of library services. ()

- x. Date “last updated” or “last reviewed” appears on each web page. ()

021. LIBRARY CONSORTIUM APPLICANTS.

Any LSTA grant program library consortium applicant or participant must have a formal organizational structure with at least the following elements in place: ()

- 01. Name.** A name for the consortium. ()
- 02. Identification Number.** A tax identification number or an employer identification number (EIN) for the consortium. ()
- 03. Members List.** A list of all the members. ()
- 04. Governance Structure.** A representative governance structure and the name or names of the individuals with leadership roles and responsibilities identified. ()
- 05. Funding Mechanism.** A sustaining funding mechanism supported in part by local funds from the members involved. ()
- 06. Plan.** A current, written long range or strategic plan approved by the members and available for review. ()
- 07. Agreement or By-Laws.** A cooperative agreement or by-laws of the organization signed by each member. ()
- 08. Policies and Procedures.** Policies and procedures for services, such as reciprocal borrowing, shared circulation, materials delivery, and cooperative collection development. ()
- 09. Addition or Withdrawal of Members.** Procedures for adding members to, and withdrawing members from, the consortia. ()

022. NON-LIBRARY ENTITIES.

Any LSTA grant program non-library entity applicant or participant must: ()

- 01. Registered Non-Profit.** Be a non-profit corporation registered with the Idaho Secretary of State under the Idaho Non-Profit Corporation Act (Title 30, Chapter 3, Idaho Code); and ()
- 02. Tax Exempt.** Have tax exempt status under Internal Revenue Code, 26 U.S.C. Section 501(c)(3) or be tax-exempt as a governmental unit or publicly supported organization under Internal Revenue Code, 26 U.S.C. Section 509(a)(1). ()

023. PROCESS FOR GAINING ACCESS TO THE SERVICE.

- 01. Application Process.** The application process for funds (under the LSTA grant programs described in Sections 020, 021, and 022 of these rules) from each annual allotment is described in the Commission’s LSTA Guide, available in print at the Commission offices and on the Commission’s website. ()
- 02. Application Forms.** All applicants seeking to participate in any LSTA grant program must apply on forms provided by the Commission. ()

024. – 029. (RESERVED).

030. REQUEST FOR EXEMPTION FROM THE CRITERIA FOR A PROPOSED LIBRARY DISTRICT - SECTION 33-2703(5), IDAHO CODE.

- 01. Exemption Requests.** An applicant requesting exemption must apply on forms provided by the

Commission and must submit the completed application at least six (6) months prior to the election to be conducted to establish the district. ()

02. Factors in Evaluating the Request for Exemption. In reviewing applications for exemption, the following factors shall be considered: ()

a. Service plan and budget. ()

i. Will the proposed district meet the Commission's LSTA grant eligibility requirements? ()

ii. Is there an awareness of current trends in library service and the ability to offer new services as the need is identified? ()

iii. Is the proposed budget commensurate with the service plan? ()

iv. Is the district as described likely to be able to sustain a level of library services that is consistent with state plans? ()

b. Proposed boundaries, population size, and levy. ()

i. Have the organizers investigated all reasonable alternatives, including those identified by Commission staff? ()

ii. Have the organizers met with neighboring library boards to discuss possible annexation or combination? Have those neighboring boards indicated that they are not interested? ()

iii. Does area history suggest the election is not likely to pass with expanded boundaries? ()

iv. Is the proposal part of a plan to use the proposed district as a stepping stone to a larger district? ()

c. Anticipated impact in the event exemption is not granted. ()

i. Will current services significantly decline? ()

ii. Will the long-term effects be so negative that library service will be badly damaged in the long run? ()

031. – 999. (RESERVED).

IDAPA 30 - IDAHO STATE LIBRARY

30.01.02 - RULES OF THE IDAHO STATE LIBRARY GOVERNING PARTICIPATION IN STATE LIBRARY-ADMINISTERED GRANTS

DOCKET NO. 30-0102-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-2503, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2007.

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

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

This entire chapter of rules is being repealed. It will be replaced by a completely rewritten chapter proposed under Docket No. 30-0101-0702 that is published in this Bulletin.

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

No fees or charges are being imposed or increased.

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

There will be no negative fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to the publication of the proposed rule because the existing chapter of rules is being repealed as a part of the promulgation process for the rewrite. The entire chapter is being rewritten based on changes to Title 33, Chapter 25, Idaho Code, made by the 2006 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ann Joslin, State Librarian, at (208) 334-2150.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 30th day of May, 2007.

Ann Joslin, State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720, Boise, Idaho 83702
(208) 334-2150 phone / (208) 334-4016 fax

IDAPA 30.01.02 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0701 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2007, Section 54-2027(6), Idaho Code, as amended by S 1109.

PUBLIC HEARING: Public hearing concerning this rulemaking will be held as follows:

Thursday, July 26, 2007
10:00 a.m.
The Idaho Real Estate Commission
633 North Fourth Street
Boise, Idaho 83702

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

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

Effective July 1, 2007, and as a result of Senate Bill 1109, the incidental fees established in Section 54-2020, Idaho Code, will become "fee caps" with the exact amount of each fee established by the Commission as an administrative rule. This rule establishes the fees at the same rate as currently established in the statute. However, the Commission will now have the authority to lower – but not raise above the fee cap – these fees in the future.

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

This rule change is necessary to comply with deadlines in amendments to governing law, specifically, SB 1109, which changed the statutory fee amounts to fee caps, requiring that the exact fee amount be established in rule. The law becomes effective July 1, 2007. Failure to establish the exact fee amounts in rule through the adoption of this temporary rule would prevent the commission from collecting these fees until the rule is adopted and approved as a final rule during the 2008 legislative session. It would also disrupt the current process used for fee collection and cause delays in processing licenses which could impede or prevent licensees from conducting business.

FEE SUMMARY: The statutory changes have set the fee cap for each fee and require that the exact fees amounts be established in rule. This rulemaking simply establishes those fees in the rule.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Jeanne Jackson-Heim, (208) 334-3285.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 29th day of June, 2007.

Jeanne Jackson-Heim
Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0701

101. LATE LICENSE RENEWAL FEES.

When a license renewal application is submitted after the license period has elapsed, there shall be, in addition to the fees for renewing the license, a late fee in the amount of twenty-five dollars (\$25). (7-1-07)T

102. FEE TO PRINT LICENSE CERTIFICATE.

The fee for having the commission print a license certificate shall be fifteen dollars (\$15) for each certificate. (7-1-07)T

103. FEE TO COMPILE EDUCATION OR LICENSE HISTORY.

The fee for having the commission compile and certify a licensee's education history or license history shall be ten dollars (\$10) for each compilation. (7-1-07)T

104. FEE FOR BRANCH OFFICE LICENSE.

The fee for an initial or renewing license for each branch office shall be fifty dollars (\$50) per license period. (7-1-07)T

~~1045.~~ -- 116. (RESERVED).

IDAPA 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0702

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2007, Section 54-2027(6), Idaho Code, as amended by S 1109.

PUBLIC HEARING: Public hearing concerning this rulemaking will be as follows:

Thursday, July 26, 2007
10:00 a.m.
The Idaho Real Estate Commission
633 North Fourth Street
Boise, Idaho 83702

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

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

Effective July 1, 2007, (and as a result of Senate Bill 1109), the license law will prohibit real estate education providers from offering, for licensing credit, any course that is being taught below the "minimum teaching standards established by the Commission." This rule establishes those minimum standards.

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

This rule change is necessary to comply with deadlines in amendments to governing law, specifically, Senate Bill 1109, which inferentially requires that the Commission establish minimum teaching standards. The law becomes effective July 1, 2007.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Jeanne Jackson-Heim, (208) 334-3285.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 29th day of May, 2007.

Jeanne Jackson-Heim, Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0702

403. -- ~~999499~~. (RESERVED).

RULES 500 THROUGH 599 – EDUCATION TEACHING STANDARDS

500. MINIMUM TEACHING STANDARDS OF THE COMMISSION.

All courses offered for credit by a certified provider shall be taught in accordance with the following standards of the Real Estate Commission: (7-1-07)T

01. Certification Requirement. A course required to be taught by a Commission-certified or Commission-approved instructor shall be taught only by an instructor that is currently approved or certified for that course: (7-1-07)T

02. Outlines and Curriculum. A course must be taught in accordance with the course outline or curriculum approved by the Commission: (7-1-07)T

03. Attendance Requirement. The course instructor shall adhere to the Commission's written attendance policy and shall submit credit hours only for students who have successfully met the attendance requirements for which the course was approved. (7-1-07)T

04. Product Promotion and Recruitment. The course instructor shall adhere to the Commission's written policies restricting product promotion and recruitment activities in the classroom: (7-1-07)T

05. Professional Mannerism. The course instructor shall conduct himself or herself in a professional manner when performing instructional duties, and shall not engage in any form of harassment based on the gender, national origin, race, religion, age or physical or mental disability of any student, and shall not engage in conduct that degrades or disparages any student or other instructor. (7-1-07)T

06. Subject Matter Knowledge. The instructor shall conduct the class in a manner that demonstrates knowledge of the subject matter being taught: (7-1-07)T

07. Competent Teaching Skills. The instructor shall conduct the class in a manner that demonstrates competency in the following basic teaching skills: (7-1-07)T

a. The ability to effectively communicate through speech: (7-1-07)T

b. The ability to present instruction in an accurate, logical, orderly and understandable manner and to respond appropriately to questions from students: (7-1-07)T

c. The ability to utilize varied instructional techniques in addition to lecture, such as class discussion, role playing or other techniques in a manner that enhances learning: (7-1-07)T

d. The ability to utilize instructional aids and modern technology in a manner that enhances learning: (7-1-07)T

e. The ability to maintain an appropriate learning environment and effective control of a class: (7-1-07)T

f. The ability to interact with adult students in a manner that encourages students to learn, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, including fellow peer

instructors, any agency or any organization.

(7-1-07)T

08. Prohibited Conduct. The course instructor shall not display any images or use language, including jokes and stories, that are vulgar, that contain racial, sexual, or religious slurs, or that otherwise is intended to disparage or degrade any student or peer instructor. Excessive reference to personal history, or the sharing of information of an intimate or highly personal nature concerning the instructor or any other person, is not permitted.

(7-1-07)T

09. Maintaining Exam Security. The instructor shall take reasonable steps to protect the security of course examinations and shall not allow students to retain copies of final course examinations or the exam answer key.

(7-1-07)T

10. Use of Exam Questions Prohibited. The instructor shall not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions.

(7-1-07)T

11. Instructor Evaluations. The instructor must maintain, for the course, an annual average of four point zero (4.0) (based on one to five (1-5) scale) on the standard Commission evaluations for the instructor's overall average category.

(07-1-07)T

501. -- 999. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0705

THE WILDHORSE RIVER SUBBASIN ASSESSMENT AND TMDL (HUC 17050201)

NOTICE OF FINAL DECISION

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

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Wildhorse Subbasin Assessment and 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 Wildhorse Subbasin Assessment and TMDL (Hydrologic Unit Code 17050201) addresses one (1) stream and one assessment unit on Idaho's 2002 Section 303(d) list. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at http://www.deq.idaho.gov/water/data_reports/surface_water/tmdls/wildhorse_river/wildhorse_river.cfm or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 22nd day of May, 2007.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0706

THE SOUTH FORK PALOUSE RIVER SUBBASIN TMDL (HUC 17060108)

NOTICE OF FINAL DECISION

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

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the South Fork Palouse River 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 South Fork Palouse River TMDL (Hydrologic Unit Codes 17060108) addresses three (3) assessment units (AUs) on Idaho's 2002 Section 303(d) list. The three (3) AUs contain twelve (12) TMDLs. 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/palouse_river_sf/palouse_river_sf.cfm or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 22nd day of May, 2007.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0707

THE LINDSAY CREEK SUBBASIN TMDL (HUC 17060306)

NOTICE OF FINAL DECISION

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 TMDLs. 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 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. An appeal of the Lindsay Creek TMDL shall be limited to changes to the initial EPA submittal of December 8, 2006 related expressly to providing Waste Load Allocations for construction stormwater and MS4 to the City of Lewiston. 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 Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 22nd day of May, 2007.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
DOCKET NO. 58-0000-0708
THE UPPER HANGMAN CREEK SUBBASIN TMDLS (HUC 17010306)
NOTICE OF FINAL DECISION

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

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

The area covered by the Upper Hangman Creek Subbasin TMDLs (Hydrologic Unit Codes 17010306) addresses two (2) assessment units (AUs) on Idaho's 2002 Section 303(d) list. The two (2) AUs contain six (6) TMDLs. In addition, these same two (2) AUs were found to be impaired for pollutants not yet listed on Idaho's 2002 Section 303(d) list and are recommended for listing changes. DEQ completed TMDLs for all AU/pollutant combinations deemed water quality impaired. 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/hangman_creek_upper/hangman_creek_upper.cfm or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 11th day of June, 2007.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.07 - RULES REGULATING UNDERGROUND STORAGE TANK SYSTEMS

DOCKET NO. 58-0107-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapters 1 and 88, Title 39, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by July 16, 2007.

July 19, 2007, 9 a.m. to 4 p.m.
Department of Environmental Quality, Conference Room D
1410 N. Hilton, Boise, Idaho

PRELIMINARY DRAFT: A preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/ust/58_0107_0701_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: Under House Bill 33, the 2007 Idaho Legislature enacted the Idaho Underground Storage Tank Act, Chapter 88, Title 39, Idaho Code, which implements the federal Underground Storage Tank Compliance Act of 2005. DEQ has been directed by the Idaho Legislature to promulgate rules necessary to regulate UST systems in the state of Idaho. This rulemaking will consider the following issues:

1. Incorporating by reference 40 CFR Part 280, Technical Standards and Corrective Action Requirements for Owners and Operators of USTs;
2. Inspection and certification of USTs;
3. Operator training and certification of installers;
4. Release prevention, detection, compliance and enforcement;
5. Delivery prohibitions;
6. Additional measures to protect ground water, such as secondary containment for new or replacement UST systems or connecting pipes; and
7. Development of a database system for UST information status.

Cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, representatives of the Idaho Petroleum Storage Tank Fund Board of Trustees, and citizens of the state of Idaho may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in September 2007 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2007. If adopted, the pending rule will be reviewed by the 2008 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Orville Green at orville.green@deq.idaho.gov, (208) 373-0278 or Rick Jarvis at rick.jarvis@deq.idaho.gov, (208) 373-0247.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by July 27, 2007. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 1st day of June, 2007.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 - GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. The meetings will take place simultaneously and will be conducted through video conferencing. For information regarding scheduling of additional meetings, contact the undersigned.

July 10, 2007

9:00 a.m. to 1:00 p.m. MDT

**University of Idaho
Tingey Administration Building
Room TAB 350A
1776 Science Center Drive
Idaho Falls, Idaho**

**Idaho Water Center
322 E. Front Street
Room 162
Boise, Idaho**

**Idaho State University
Basement of Obeler Library, Room B06
850 S. 9th Avenue
Pocatello, Idaho**

**Harbor Center
1000 W. Hubbard Avenue
Room 112
Coeur d'Alene, Idaho**

July 18, 2007

9:00 a.m. to 1:00 p.m. MDT

**University of Idaho
Tingey Administration Building
Room TAB 350A
1776 Science Center Drive
Idaho Falls, Idaho**

**Idaho Water Center
322 E. Front Street
Room 162
Boise, Idaho**

**Idaho State University
Basement of Obeler Library, Room B06
850 S. 9th Avenue
Pocatello, Idaho**

**Harbor Center
1000 W. Hubbard Avenue
Room 112
Coeur d'Alene, Idaho**

PRELIMINARY DRAFT: A preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/groundwater/58_0111_0701_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to clarify portions of the Ground Water Quality Rule to promote consistency in application of the rule to mining activities. The following issues will be considered:

1. Add appropriate definitions necessary to improve interpretation and implementation of active mineral extraction provisions of the Ground Water Quality Rule, and
2. Points of compliance for ground water quality related issues at sites with active mineral extraction.

Mining industry, conservation groups, environmental protection groups, state and federal land management agencies, and concerned citizens of the state of Idaho may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in September 2007 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2007. If adopted, the pending rule will be reviewed by the 2008 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov, (208)373-0356.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by July 27, 2007. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 7th day of June, 2007.

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

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.

*The written comment deadline is July 25, 2007, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
** Indicates that a public hearing has been scheduled.*

IDAPA 02 - DEPARTMENT OF AGRICULTURE P.O. Box 790, Boise, Idaho 83701-0790

****02-0403-0701**, Rules Governing Animal Industries. (Temp & Prop) Updates incorporation by reference section, adds sections to list reportable and notifiable diseases by name, and makes minor corrections.

****02-0248-0701**, Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots. (Temp & Prop) New chapter establishes facility, recordkeeping, and movement requirements for livestock dealers, buying stations, and livestock trader lots.

02-0602-0701, Rules Pertaining to the Idaho Commercial Feed Law. Updates the incorporation by reference to the 2008 AAFCO publication for the registration of animal feeds.

02-0641-0701, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001. Updates the incorporation by reference to the 2008 AAPFCO publication for the registration of soil and plant amendments.

IDAPA 08 - STATE BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037

08-0203-0701, Rules Governing Thoroughness. (Temp & Prop) Updates the incorporation by reference to the ISAT Achievement Standards with a new set of achievement standards in mathematics, reading, language usage, and science in grades 3-8 and 10.

IDAPA 15 - OFFICE OF THE GOVERNOR IDAHO COMMISSION ON AGING 3380 Americana Terrace, Ste. 120, Boise, ID 83706

15-0102-0701, Rules Governing Area Agency Adult Protection Programs. Expands the definition of "AP (Adult Protection) Worker" to include other qualified individuals with relevant education and experience.

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

****16-0310-0701**, Medicaid Enhanced Plan Benefits. Adds language to the rule requiring that all person providing HCBS to vulnerable adults to complete a criminal history background check; removes requirement for a physician's order for Personal Care Services per SB 1339.

****16-0317-0701**, Medicare/Medicaid Coordinated Plan Benefits. New chapter implements HCR 49 and the corresponding benefit package approved by the Centers for Medicare/Medicaid Services as part of Idaho's Medicaid Modernization plan.

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES
PO Box 83720, Boise, ID 83720

30-0101-0701, Rules of the Idaho State Library Governing the Use of State Library Materials and Services. Chapter repeal.

30-0101-0702, Rules of the Idaho Commission for Libraries Governing the Use of Commission Services. Chapter rewrite changes agency name, establishes procedures for conducting Commission business, provides location and mailing information, defines terms, sets out the requirements for certain grant programs, and establishes criteria for requests for exemption from proposed library districts.

30-0102-0701, Rules of the Idaho State Library Governing Participation in State Library-Administered Grants. Chapter repeal.

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
PO Box 83720, Boise, ID 83720

****33-0101-0701**, Rules of the Idaho Real Estate Commission. (Temp & Prop) Changes comply with SB 1109 by establishing certain fees in rule that were previously set in statute.

****33-0101-0702**, Rules of the Idaho Real Estate Commission. (Temp & Prop) Enacts SB 1109 by prohibiting real estate education providers from offering, for licensing credit, any course that is being taught below the "minimum teaching standards established by the Commission."

Negotiated Rulemaking Meetings Are Being Held on the Following Dockets:
(See July Bulletin for dates, times, and locations)

Bureau of Occupational Licenses

24-2401-0701, Rules of the Idaho Board of Naturopathic Medical Examiners. Comment by: 7/25/07.

Department of Environmental Quality

58-0107-0701, Rules Regulating Underground Storage Tank Systems. Comment by: 7/27/07.

58-0111-0701, Ground Water Quality Rule. Comment by: 7/27/07.

Please refer to the Idaho Administrative Bulletin, **July 4, 2007, Volume 07-7** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at www.adm.idaho.gov/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.

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