

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents - Book 2 October 3, 2007 -- Volume 07-10

PREFACE	8
IDAPA 17 - INDUSTRIAL COMMISSION	
17.02.08 - Miscellaneous Provisions	
Docket No. 17-0208-0702	
Notice of Rulemaking - Proposed Rule.....	17
IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE	
18.01.44 - Schedule of Fees, Licenses and Miscellaneous Charges	
Docket No. 18-0144-0701 (Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	21
18.01.50 - Adoption of the 2003 International Fire Code	
Docket No. 18-0150-0701	
Notice of Rulemaking - Temporary and Proposed Rule	23
18.01.53 - Continuing Education	
Docket No. 18-0153-0701	
Notice of Rulemaking - Proposed Rule.....	27
18.01.60 - Long-Term Care Insurance Minimum Standards	
Docket No. 18-0160-0701	
Notice of Rulemaking - Proposed Rule.....	31
IDAPA 19 - STATE BOARD OF DENTISTRY	
19.01.01 - Rules of the State Board of Dentistry	
Docket No. 19-0101-0701 (Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	35
IDAPA 20 - DEPARTMENT OF LANDS	
20.02.06 - Administration Of Idaho's Reforestation Law	
Docket No. 20-0206-0701 (Chapter Repeal)	
Notice of Rulemaking - Proposed Rule.....	37
20.02.12 - Rules of the Community and Urban Forestry Trust Account	
Docket No. 20-0212-0701 (Chapter Repeal)	
Notice of Rulemaking - Proposed Rule.....	38
20.03.04 - Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho	
Docket No. 20-0304-0701 (Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	39
20.03.17 - Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands	
Docket No. 20-0317-0701 (Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	61

IDAPA 21 - DIVISION OF VETERANS SERVICES**21.01.01 - Rules Governing Admission, Residency, and Maintenance Charges in Idaho State
Veterans Homes and Division of Veterans Services Administrative Procedure**Docket No. **21-0101-0701**

Notice of Rulemaking - Adoption of Pending Rule.....70

IDAPA 22 - BOARD OF MEDICINE**22.01.01 - Rules of the Board Of Medicine for the Licensure to Practice Medicine and Surgery
and Osteopathic Medicine and Surgery in Idaho**Docket No. **22-0101-0701 (Fee Rule)**

Notice of Rulemaking - Proposed Rule.....71

22.01.02 - Rules of the Board of Medicine for the Registration of Externs, Interns, and Medical ResidentsDocket No. **22-0102-0701 (Fee Rule)**

Notice of Rulemaking - Proposed Rule.....82

22.01.11 - Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in IdahoDocket No. **22-0111-0701 (Fee Rule)**

Notice of Rulemaking - Proposed Rule.....87

IDAPA 23 - BOARD OF NURSING**23.01.01 - Rules of the Idaho Board of Nursing**Docket No. **23-0101-0702**

Notice of Rulemaking - Temporary and Proposed Rule101

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**24.03.01 - Rules of the State Board of Chiropractic Physicians**Docket No. **24-0301-0701**

Notice of Vacation of Proposed Rulemaking105

Docket No. **24-0301-0702**

Notice of Rulemaking - Proposed Rule.....106

24.04.01 - Rules of the Idaho Board of CosmetologyDocket No. **24-0401-0701**

Notice of Rulemaking - Proposed Rule.....109

24.05.01 - Rules of the Board of Drinking Water and Wastewater ProfessionalsDocket No. **24-0501-0701**

Notice of Rulemaking - Proposed Rule.....119

24.07.01 - Rules of the Idaho State Board of Landscape ArchitectsDocket No. **24-0701-0701 (Fee Rule)**

Notice of Rulemaking - Proposed Rule.....126

24.08.01 - Rules of the State Board of MorticiansDocket No. **24-0801-0701**

Notice of Rulemaking - Proposed Rule.....128

24.09.01 - Rules of the Board of Examiners of Nursing Home AdministratorsDocket No. **24-0901-0701**

Notice of Rulemaking - Proposed Rule.....132

24.11.01 - Rules of the State Board of Podiatry	
Docket No. 24-1101-0701	
Notice of Rulemaking - Proposed Rule.....	135
24.14.01 - Rules of the State Board of Social Work Examiners	
Docket No. 24-1401-0701	
Notice of Rulemaking - Proposed Rule.....	137
24.15.01 - Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists	
Docket No. 24-1501-0701 (Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	144
24.16.01 - Rules of the State Board of Dentistry	
Docket No. 24-1601-0701	
Notice of Rulemaking - Proposed Rule.....	152
24.17.01 - Rules of the Idaho State Board of Acupuncture	
Docket No. 24-1701-0701	
Notice of Rulemaking - Proposed Rule.....	156
24.18.01 - Rules of the Real Estate Appraiser Board	
Docket No. 24-1801-0701	
Notice of Rulemaking - Temporary and Proposed Rule	159
24.22.01 - Rules of the Idaho State Liquefied Petroleum Gas Safety Board	
Docket No. 24-2201-0701	
Notice of Rulemaking - Proposed Rule.....	168
24.23.01 - Rules Governing the Idaho Board of Speech and Hearing Services	
Docket No. 24-2301-0701	
Notice of Rulemaking - Proposed Rule.....	170
24.24.01 - Rules of the Board of Naturopathic Medical Examiners	
Docket No. 24-2401-0701 (New Chapter - Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	174
IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION	
26.01.20 - Rules Governing the Administration of Park and Recreation Areas and Facilities	
Docket No. 26-0120-0701	
Notice of Rulemaking - Proposed Rule.....	184
26.01.30 - Idaho Safe Boating Rules	
Docket No. 26-0130-0701	
Notice of Rulemaking - Proposed Rule.....	186
IDAPA 27 - BOARD OF PHARMACY	
27.01.01 - Rules of the Idaho State Board of Pharmacy	
Docket No. 27-0101-0703	
Notice of Rulemaking - Temporary and Proposed Rule	188

Docket No. 27-0101-0705	
Notice of Rulemaking - Proposed Rule.....	200
IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE	
28.02.03 - Rules of the Idaho Regional Travel and Convention Grant Program	
Docket No. 28-0203-0701	
Notice of Rulemaking - Temporary and Proposed Rule	203
28.03.04 - Rules of the Business and Jobs Development Grant Fund	
Docket No. 28-0304-0701	
Notice of Rulemaking - Temporary Rule.....	209
IDAPA 29 - IDAHO POTATO COMMISSION	
29.01.01 - Rules of Procedure of the Idaho Potato Commission	
Docket No. 29-0101-0701	
Notice of Rulemaking - Temporary and Proposed Rule	210
29.01.02 - Rules Governing Payment of Tax and Usage of Federally Registered trademarks	
Docket No. 29-0102-0701	
Notice of Rulemaking - Temporary and Proposed Rule	214
IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION	
31.12.01 - Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission	
Docket No. 31-1201-0701	
Notice of Rulemaking - Proposed Rule.....	226
31.21.01 - Customer Relations Rules for Gas, Electric and Water Public Utilities Regulated by the Idaho Public Utilities Commission (The Utility Customer Relations Rules)	
Docket No. 31-2101-0701	
Notice of Rulemaking - Proposed Rule	229
31.71.02 - Railroad Accident Reporting Rules	
Docket No. 31-7102-0701 (Chapter Repeal)	
Notice of Rulemaking - Proposed Rule.....	236
31.71.03 - Railroad Safety/Sanitation Rules	
Docket No. 31-7103-0701	
Notice of Rulemaking - Proposed Rule.....	237
IDAPA 33 - IDAHO REAL ESTATE COMMISSION	
33.01.01 - Rules of the Idaho Real Estate Commission	
Docket No. 33-0101-0701 (Fee Rule)	
Notice of Rulemaking - Adoption of Pending Fee Rule	240
Docket No. 33-0101-0702	
Notice of Rulemaking - Adoption of Pending Rule	241
Docket No. 33-0101-0703	
Notice of Rulemaking - Proposed Rule.....	242
IDAPA 35 - STATE TAX COMMISSION	
35.01.01 - Income Tax Administrative Rules	

Docket No. 35-0101-0701	
Notice of Rulemaking - Proposed Rule.....	244
35.01.02 - Sales Tax Administrative Rules	
Docket No. 35-0102-0603	
Notice of Rulemaking - Proposed Rule.....	275
Docket No. 35-0102-0701	
Notice of Rulemaking - Proposed Rule.....	278
35.01.03 - Property Tax Administrative Rules	
Docket No. 35-0103-0701	
Notice of Rulemaking - Temporary and Proposed Rule	300
Docket No. 35-0103-0702	
Notice of Rulemaking - Proposed Rule.....	308
35.01.05 - Idaho Motor Fuels Tax Administrative Rules	
Docket No. 35-0105-0701	
Notice of Rulemaking - Temporary and Proposed Rule	351
Docket No. 35-0105-0702	
Notice of Rulemaking - Proposed Rule.....	365
35.01.09 - Idaho Kitchen and Table Wine Tax Administrative Rules	
Docket No. 35-0109-0701	
Notice of Rulemaking - Proposed Rule.....	368
35.01.10 - Idaho Cigarette and Tobacco Tax Administrative Rules	
Docket No. 35-0110-0701	
Notice of Rulemaking - Proposed Rule.....	370
35.01.11 - Idaho Unclaimed Property Administrative Rules	
Docket No. 35-0111-0701	
Notice of Rulemaking - Proposed Rule.....	373
35.02.01 - Tax Commission Administration and Enforcement Rules	
Docket No. 35-0201-0701	
Notice of Rulemaking - Proposed Rule.....	375
IDAPA 37 - DEPARTMENT OF WATER RESOURCES	
37.03.01 - Adjudication Rules	
Docket No. 37-0301-0701 (Fee Rule)	
Notice of Rulemaking - Temporary and Proposed Rule	377
IDAPA 38 - DEPARTMENT OF ADMINISTRATION	
38.01.01 - Other Contested Case or Adversary Hearings Before the Department of Administration	
Docket No. 38-0101-0701 (Chapter Repeal)	
Notice of Rulemaking - Temporary and Proposed Rule	393
38.01.02 - Rules for Hearing Procedure for Division of Purchasing Specification Challenges and Rules for Non-Adversary Hearings	
Docket No. 38-0102-0701 (Chapter Repeal)	
Notice of Rulemaking - Temporary and Proposed Rule	394

38.01.03 - Rules Governing Practice and Procedure for Public Hearings Before the Department of Administration	
Docket No. 38-0103-0701 (Chapter Repeal)	
Notice of Rulemaking - Temporary and Proposed Rule	395
38.05.01 - Rules of the Division of Purchasing	
Docket No. 38-0501-0701	
Notice of Rulemaking - Temporary and Proposed Rule	396
38.05.02 - Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing	
Docket No. 38-0502-0701 (New Chapter)	
Notice of Rulemaking - Temporary and Proposed Rule	402
IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT	
39.02.60 - Rules Governing License Plate Provisions	
Docket No. 39-0260-0701	
Notice of Rulemaking - Temporary and Proposed Rule	406
39.02.75 - Rules Governing Names on Drivers' Licenses and Identification Cards	
Docket No. 39-0275-0701	
Notice of Rulemaking - Temporary and Proposed Rule	416
39.03.08 - Rules Governing Prequalification of Variable Load Suspension Axles and Other Auxiliary Axles	
Docket No. 39-0308-0701 (Chapter Repeal)	
Notice of Rulemaking - Temporary and Proposed Rule	420
39.03.10 - Rules Governing When an Overlegal Permit Is Required	
Docket No. 39-0310-0701	
Notice of Rulemaking - Temporary and Proposed Rule	421
39.03.12 - Rules Governing Safety Requirements of Overlegal Permits	
Docket No. 39-0312-0701	
Notice of Rulemaking - Temporary and Proposed Rule	425
39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads	
Docket No. 39-0316-0701	
Notice of Rulemaking - Temporary and Proposed Rule	428
39.03.17 - Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers	
Docket No. 39-0317-0701	
Notice of Rulemaking - Temporary and Proposed Rule	430
IDAPA 41 - PUBLIC HEALTH DISTRICTS	
41.04.01 - Public Health District 4 - Costs and Charges	
Docket No. 41-0401-0701 (Chapter Repeal) (Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	433
IDAPA 54 - OFFICE OF THE STATE TREASURER	
54.02.01 - Rules Governing the College Savings Program	
Docket No. 54-0201-0701	
Notice of Rulemaking - Proposed Rule.....	434

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
The Lower Clark Fork River Subbasin TMDLS (HUC 17010213)
Docket No. **58-0000-0709**
Notice of Final Decision.....440

The August 2007 Revised Addendum to the Mid-Snake Succor Subbasin TMDLS (HUC 17050103)
Docket No. **58-0000-0710**
Notice of Final Decision.....441

58.01.01 - Rules for the Control of Air Pollution in Idaho
Docket No. **58-0101-0703**
Notice of Rulemaking - Negotiated Rulemaking442

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS443

SECTIONS AFFECTED INDEX451

**ABRIDGED EDITION OF THE CUMULATIVE RULEMAKING INDEX OF IDAHO
ADMINISTRATIVE RULES467**

INDEX483

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.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS	
IDAPA 01	Accountancy , Board of
IDAPA 38	Administration , Department of
IDAPA 44	Administrative Rules Coordinator , Office of the
IDAPA 02	Agriculture , Idaho Department of
IDAPA 40	Arts , Idaho Commission on the
IDAPA 03	Athletic Commission
IDAPA 04	Attorney General , Office of the
IDAPA 53	Barley Commission , Idaho
IDAPA 51	Beef Council , Idaho
IDAPA 07	Building Safety , Division of Electrical Board Plumbing Board Building Codes & Manufactured Homes Building Code Advisory Board Uniform School Building Safety Public Works Contractors License Board HVAC Board
IDAPA 43	Canola and Rapeseed Commission , Idaho
IDAPA 28	Commerce , Idaho Department of
IDAPA 06	Correction , Board of
IDAPA 19	Dentistry , Board of
IDAPA 08	Education , Board of and Department of
IDAPA 10	Engineers and Land Surveyors , Board of Professional
IDAPA 58	Environmental Quality , Department of
IDAPA 12	Finance , Department of
IDAPA 13	Fish and Game , Department of
IDAPA 14	Geologists , Board of Registration of Professional
IDAPA 15	Governor , Office of the Idaho Commission on Aging Idaho Commission for the Blind and Visually Impaired Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS	
IDAPA 48	Grape Growers and Wine Producers Commission
IDAPA 16	Health and Welfare, Department of
IDAPA 45	Human Rights Commission
IDAPA 30	Idaho State Library
IDAPA 11	Idaho State Police
IDAPA 39	Idaho Transportation Department
IDAPA 17	Industrial Commission
IDAPA 18	Insurance, Department of
IDAPA 05	Juvenile Corrections, Department of
IDAPA 09	Labor, Idaho Department of
IDAPA 20	Lands, Department of
IDAPA 52	Lottery Commission, Idaho State
IDAPA 22	Medicine, Board of
IDAPA 23	Nursing, Board of
IDAPA 24	Occupational Licenses, Board of Board of Acupuncture Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Dentistry Board of Drinking Water and Wastewater Specialists Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Liquefied Petroleum Gas Safety Board Board of Optometry Board of Podiatry Board of Professional Counselors and Marriage & Family Therapists Board of Psychologist Examiners Real Estate Appraiser Board Board of Residential Care Facility Administrators Board of Social Work Examiners
IDAPA 25	Outfitters and Guides Licensing Board
IDAPA 50	Pardons and Parole, Commission for
IDAPA 26	Parks and Recreation, Department of
IDAPA 27	Pharmacy, Board of

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS	
IDAPA 29	Potato Commission, Idaho
IDAPA 55	Professional-Technical Education, Division of
IDAPA 59	Public Employee Retirement System of Idaho (PERSI)
IDAPA 41	Public Health Districts
IDAPA 31	Public Utilities Commission
IDAPA 56	Rangeland Resources Commission, Idaho
IDAPA 33	Real Estate Commission, Idaho
IDAPA 34	Secretary of State, Office of the
IDAPA 57	Sexual Offender Classification Board
IDAPA 49	Shorthand Reporters, Board of Certified
IDAPA 36	Tax Appeals, Board of
IDAPA 35	Tax Commission, State
IDAPA 54	Treasurer, Office of the State
IDAPA 21	Veterans Services, Division of
IDAPA 46	Veterinary Medical Examiners, Board of
IDAPA 47	Vocational Rehabilitation, Division of
IDAPA 37	Water Resources, Department of
IDAPA 42	Wheat Commission

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0702

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, AND 72-723, Idaho Code, and Section 72-803of the Idaho Code.

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

October 9, 2007
3:00 p.m. – 6:00 p.m.
Ameritel Inn
333 Ironwood Ave.
Coeur d'Alene, ID

October 15, 2007
1:00 p.m. - 5:00 p.m.
Industrial Commission
317 Main Street
Boise, ID

October 18, 2007
3:00 p.m. – 6:00 p.m.
Ameritel Inn
645 Lindsay Blvd.
Idaho Falls, ID

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

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

The medical fee schedule included in IDAPA 17.02.08 is currently a temporary rule that expires at the end of the 2008 legislative session. The medical fee schedule and rule changes incorporates the analysis performed by Ingenix, a consulting firm, to establish and maintain stability for reimbursement methodology for providers, sureties, and employers while maintaining budget neutrality. The proposed rule attempts to be equitable to all parties while maintaining access to providers by injured workers.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the affected interests are not likely to reach consensus. Written and verbal comments have been received from medical providers, sureties, and self-insured employers and were considered in the proposed amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mindy Montgomery, Director, 208-334-6000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 24th day of August, 2007.

Mindy Montgomery, Director
Industrial Commission
317 Main St.
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0208-0702

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (3-12-07)

01. Definitions. Words and terms used in this rule are defined in the subsections which follow. (6-1-92)

a. "Acceptable charge" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider, or the charge agreed to pursuant to written contract. (3-12-07)

b. "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. ()

bc. "Hospital" is any acute care facility providing medical or hospital services and which bills using a ~~UB92 form~~ Medicare universal hospital billing form. (3-12-07)()

i. Large hospital is any hospital with more than ~~fifty~~ one hundred (\$100) acute care beds. (3-12-07)()

ii. Small Hospital is any hospital with ~~fifty~~ one hundred (\$100) acute care beds or less. (3-12-07)()

ed. "Provider" means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of an industrially injured patient which are compensable under Idaho's Workers' Compensation Law. (3-12-07)

de. "Payor" means the legal entity responsible for paying medical benefits under Idaho's Workers' Compensation Law. (6-1-92)

ef. "Medical Service" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses, and related service, facility, equipment and supply. (3-12-07)

fg. "Reasonable," means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined below. (3-12-07)

gh. "Usual" means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (3-12-07)

hi. "Customary" means a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (3-12-07)

02. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services. (3-12-07)

a. Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by providers other than hospitals and ASCs. The standard for determining the acceptable charge for hospitals and ASCs shall be: (3-12-07)()

- i. For large hospitals: Eighty-five ~~P~~percent (805%) of the ~~reasonable~~ appropriate inpatient charge. (3-12-07)()
 - ii. For small hospitals: Ninety-five percent (950%) of the ~~reasonable~~ appropriate inpatient charge. (3-12-07)()
 - iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. ()
 - iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). ()
 - v. Paragraph 031.02.e., shall not apply to hospitals or ASCs. The Commission shall determine the appropriate charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. ()
- b.** Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

<u>TYPE OF SERVICE CATEGORY</u>	<u>CODE RANGE(S)</u>	<u>CONVERSION FACTOR</u>
Anesthesia	00000 - 09999	\$58.19
Surgery - Group One	22100 - 27899 29800 - 29899 63000 - 63999	\$140.00
Surgery - Group Two	28000 - 28999 64550 - 64999	\$125.00
Surgery - Group Three	13000 - 19999 20650 - 21935 61000 - 62258	\$110.00
Surgery - Group Four	20000 - 20615 30000 - 60999 62263 - 62368 64400 - 64530 65000 - 69990	\$85.00
Surgery - Group Five	10000 - 12999 29000 - 29750	\$67.00
Radiology	70000 - 79999	\$85.00
Pathology & Laboratory	80000 - 89000	To Be Determined
Medicine - Group One	90465 - 90779 93000 - 94762 96000 - 98999	\$45.00

<u>Medicine -</u> <u>Group Two</u>	<u>90801 - 92998</u> <u>94770 - 95999</u> <u>99000 - 99499</u>	<u>\$64.50</u>
---------------------------------------	--	----------------

()

bc. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Codes 01995 and 01996. (3-12-07)

ed. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted *prior to the beginning of each state fiscal year (FY), starting with FY ~~2008~~ 2010, as determined by the director of the Department of Health and Welfare using the methodology set forth in section 56-136, Idaho Code, pursuant to Section 72-803, Idaho Code. The Commission shall determine the adjustment, which shall equal the percent change in the all item consumer price index for the west urban area, as published by the U.S. Department of Labor, for the twelve-month (12)-month period ending with December of the prior year.* (3-12-07)()

de. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a CPT code, a currently assigned RVU₂ or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant *factor~~s~~* evidence, as determined by the Commission. Where a service with a CPT Code, RVU₂ and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the *reasonable* acceptable charge for that service, based on all relevant *factor~~s~~* evidence in accordance with the procedures set out in Subsection 032.1#0. (3-12-07)()

ef. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (3-12-07)

- i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-12-07)
- ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-12-07)
- iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-12-07)
- iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-12-07)

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES
DOCKET NO. 18-0144-0701 (FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-401, 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 October 17, 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:

In 2004, the department created a discounted renewal fee for electronic renewals as an incentive to encourage licensees to renew their licenses on-line. Currently, about ninety percent of the licensees are renewing their licenses on line and the department believes the discounted fee for electronic renewals is no longer necessary as an incentive for electronic renewals. This rulemaking will eliminate the discounted fee and return to the uniform renewal rate of \$80 for adjusters, producers and surplus lines brokers that was in place prior to the 2004 change.

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

The reduced licensing renewal fee of \$60 for adjusters, producers and surplus lines brokers renewing their licenses electronically will be eliminated and licensees renewing electronically will pay the standard renewal fee of eighty dollars every two years.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is simply eliminating a discounted fee and returning to the same fee schedule that was in place prior to the discounted fee. No comments were received when the discount was implemented in 2004, and, because of the small amount involved (\$10 per year for an affected licensee), the department considered it unlikely that there would be any public interest, comment or controversy resulting from the elimination of the discounted fee.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Genetti at 208-334-4340.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

Jim Genetti, Bureau Chief
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0144-0701

030. PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and must be paid with the filing application for original license, which fees include the issuance of a license, if issued: (3-13-02)

- a. Administrators -- Three hundred dollars (\$300). (7-1-00)
- b. Producers -- Eighty dollars (\$80). (3-13-02)
- c. Designation as a managing general agent -- Eighty dollars (\$80). (3-13-02)
- d. Adjusters -- Eighty dollars (\$80). (3-13-02)
- e. Reinsurance intermediary -- Eighty dollars (\$80). (3-13-02)
- f. Surplus line brokers -- Eighty dollars (\$80). (3-13-02)

02. Examination Fees. The following fees are due and must be paid in order to take examinations for the following licenses: (3-13-02)

- a. Producers and adjusters -- application for examination and each time taken - Sixty dollars (\$60). (3-13-02)

03. Fingerprint Processing. Processing fingerprints, where required - Sixty dollars (\$60). (7-1-00)

04. License Renewal. The following fees are due and must be paid for each license in order to renew or continue each and every license: (3-13-02)

a. Adjusters, producers (biennial) -- Eighty dollars (\$80), ~~or sixty dollars (\$60) if renewed electronically.~~ ~~(3-16-04)~~(____)

b. Redesignation as managing general agent (annual) -- Eighty dollars (\$80). (3-13-02)

c. Administrators (biennial) -- Eighty dollars (\$80). (3-19-07)

i. Renewal form shall be filed on or before December 31. (3-19-07)

ii. Any renewal form postmarked after December 31 shall include a penalty in an amount equal to the renewal fee. (3-19-07)

iii. A renewal form postmarked after January 31 must be submitted as a new application with supporting documents and the full application fee. (3-19-07)

d. Surplus line brokers (biennial) -- Eighty dollars (\$80), ~~or sixty dollars (\$60) if renewed electronically.~~ ~~(3-16-04)~~(____)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.50 - ADOPTION OF THE 2003 INTERNATIONAL FIRE CODE
DOCKET NO. 18-0150-0701
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 3, 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 Sections 41-211 and 41-253, 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 October 17, 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:

The 2006 edition of the International Fire Code is a companion document to the 2006 edition of the International Building Code as adopted by the state of Idaho, Building Bureau, under other statutory authority. The adoption of this edition provides, by statute, a minimum standard for the protection of life and property from fire and explosion for the state of Idaho.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 41-253, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The building code 2006 edition is already in effect for the state. This temporary rule permits a seamless transition for the application of current code requirements for buildings across the state and will benefit the public by assuring consistency between the Building Code and Fire Code applicable in Idaho.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not feasible due to the urgency needed to adopt the temporary rule because of its companion relationship to the adopted building code. The rule merely adopts an updated edition of an existing code without substantive change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark A. Larson, Idaho State Fire Marshal, at 208-334-4370.

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 October 24, 2007.

DATED this 9th day of August, 2007.

Mark A. Larson, State Fire Marshal
Department of Insurance
700 W. State Street - 3rd Floor
Boise, ID 83720

P.O. Box 83720, Boise, ID 83720
208-334-4370; Fax: 208-334-4375

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0150-0701

18.01.50 - ADOPTION OF THE 2003~~6~~ INTERNATIONAL FIRE CODE

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 18.01.50, Rules of the Idaho Department of Insurance, Title 01, Chapter 50, "Adoption of the 2003~~6~~ International Fire Code." ~~(4-6-05)~~(10-3-07)T

02. Scope. Pursuant to the authority provided by Section 41-253, Idaho Code, the Idaho Fire Marshal hereby adopts the 2003~~6~~ edition of the International Fire Code ~~in order to provide uniformity in the plan review process for state owned and maintained buildings and to maintain consistency and conformity with the International Building Code as the minimum standard for the protection of life and property from fire and explosion for the state of Idaho.~~ ~~(4-6-05)~~(10-3-07)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. 2003~~6~~ International Fire Code. In accordance with Section 67-5229, Idaho Code, and pursuant to the authority provided by Section 41-253, Idaho Code, the Idaho Fire Marshal hereby adopts the 2003~~6~~ edition of the International Fire Code as published by the International Code Council with the following revisions, additions, deletions and appendixes. ~~(4-6-05)~~(10-3-07)T

02. Availability of Referenced Material. Copies of the 2003~~6~~ edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal, the State Law Library, and the State Legislative Council. Copies of the 2003~~6~~ International Fire Code may be procured by writing the International Code Council, Northwest Resource Center, 2122 112th Ave NE, Suite C, Bellevue, WA 98004. ~~(4-6-05)~~(10-3-07)T

(BREAK IN CONTINUITY OF SECTIONS)

016. PERMIT REQUIRED, SECTION 105.8~~1.1~~, INTERNATIONAL FIRE CODE.

A permit, if required by the local jurisdiction, shall be obtained from the designated official prior to engaging in activities requiring a permit within the local jurisdiction. ~~(5-3-03)~~(10-3-07)T

017. VIOLATION PENALTIES, SECTION 109.3, INTERNATIONAL FIRE CODE.

In Section 109.3, Violation Penalties, International Fire Code, delete ~~everything after the phrase~~ the sentence that includes "shall be guilty of a," and replace with the word "misdemeanor." ~~(5-3-03)~~(10-3-07)T

(BREAK IN CONTINUITY OF SECTIONS)

047. -- 050~~1~~. (RESERVED).

~~051. TREATMENT SYSTEMS, SECTION 3704.2.2.7, INTERNATIONAL FIRE CODE.~~

~~Add to Section 3704.2.2.7, International Fire Code, the following paragraph: Upon approval of the Chief, emergency~~

response kits recommended by the Chlorine Institute may be used for chlorine gas product leaks in lieu of the treatment system requirements of this section, as long as there are adequate responders immediately available, who are trained in their use and acceptable to the Chief. (5-3-03)

052. REFERENCED STANDARDS, CHAPTER 45, INTERNATIONAL FIRE CODE.

Beginning on Page 36587, of the NFPA Referenced Standards, make the following changes to the *referenced* listed editions:

Delete	Add	Delete	Add	Delete	Add
40-98 10-2002	40-2002 10-2007	51-97 51-2002	51-2002 51-2007	407-96 407-2001	407-2004 407-2007
41-98 11-2002	41-2002 11-2005	52-98 52-2002	52-2002 52-2006	430-95 430-2000	430-2000 430-2004
12A-97	12A-2004	57-99	57-2002	480-98	484-2002
43-99 13-2002	43-2002 13-2007	58-2001	58-2004	481-2000	484-2002
43D-99 13D-2002	43D-2002 13D-2007	61-99	61-2002	482-96 484-2002	484-2002 484-2006
43R-99 13R-2002	43R-2002 13R-2007	69-97	69-2002	490-98	490-2002
44-2000 14-2003	44-2003 14-2007	72-99 72-2002	72-2002 72-2007	495-96 495-2001	495-2004 495-2006
45-96 15-2001	45-2004 15-2007	85-2004 85-2004	85-2004 85-2007	498-96 498-2001	498-2004 498-2006
46-99 16-2003	46-2003 16-2007	86-99 86-2003	86-2003 86-2007	505-99 505-2002	505-2002 505-2006
17-98	17-2002	99-99 99-2002	99-2002 99-2005	650-98	654-2000
17A-98	17A-2002	101-2000 101-2003	101-2003 101-2006	651-98 654-2000	654-2000 654-2006
20-99 20-2003	20-2003 20-2007	410-99 110-2002	410-2002 110-2005	655-93 655-2001	655-2004 655-2007
22-98	22-2003	211-2000	211-2003	664-98 664-2002	664-2002 664-2007
24-95	24-2003	231-98	230-2003	704-96 704-2001	704-2004 704-2007
25-98	25-2002	231C-98	230-2003	750-2000 750-2003	750-2003 750-2006
30-2000	30-2003	231D-98	230-2003	1122-97	1125-2001
30A-2000	30A-2003	260-98	260-2003	1123-2000	1126-2001
30B-98 30B-2002	30B-2002 30B-2007	261-98	261-2003	1124-98 1124-2003	1124-2003 1124-2006

Delete	Add	Delete	Add	Delete	Add
33-2000	33-2003	265-98	265-2002	4125-95	4125-2004
33-2003	33-2007	265-2002	265-2007	1125-2001	1125-2007
34-2000	34-2003	266-98	272-2003	1127-98	1127-2002
34-2003	34-2007				
40-97	40-2004	267-98	272-2003	2001-2000	2001-2004
40-2001	40-2007	120-1999	120-2004	1123-2000	1123-2006
12-2000	12-2005	160-2001	160-2001	1126-2001	1126-2006
24-2002	24-2007	241-2000	241-2004	31-2001	31-2006
35-1999	35-2005	286-2000	286-2006	32-2000	32-2007
51A-2001	51A-2006	303-2000	303-2006	701-1999	701-2004
59A-2001	59A-2006	385-2000	385-2007	703-2000	703-2006
80-1999	80-2007	409-2001	409-2004	267-98	272-2003
92B-2005	92A-2006	484-2002	484-2006	111-2001	111-2005
				2001-2000	2001-2004

(~~4-6-05~~)(10-3-07)T

053. -- 055. (RESERVED).

056. REFERENCES TO APPENDIX, INTERNATIONAL FIRE CODE.

When this code references the appendix, the provisions of the appendix shall not apply unless specifically incorporated by reference. The following appendixes of the International Fire Code are incorporated by reference:

(5-3-03)

01. Appendix B, Fire Flow Requirements for Buildings. (5-3-03)

02. Appendix C, Fire Hydrant Location and Distribution. (5-3-03)

03. Appendix D, Fire Apparatus Access Roads. ~~D107.1 One or two family dwelling residential developments. Exceptions: Item 1. In the first sentence delete the word "fewer" and add the word "more."~~

(~~4-6-05~~)(10-3-07)T

04. Appendix E, Hazard Categories. (5-3-03)

05. Appendix F, Hazard Rankings. (5-3-03)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.53 - CONTINUING EDUCATION

DOCKET NO. 18-0153-0701

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 41-211, 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 October 17, 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 changes will update several procedures to comply with the requirements needed to download electronically continuing education (CE) courses and course completion rosters so that they may be credited prior to the license renewal date. This will allow licensees to access their CE records via the Internet. In addition, because of a reduction in the CE credit hour requirements from forty to twenty four to meet national uniformity standards, exemptions to CE and added credits are being eliminated.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes will result in greater convenience to licensees and would be very unlikely to generate public interest or comment for purposes of negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Genetti at (208-334-4340)

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 21st day of August, 2007.

Jim Genetti
Bureau Chief
Idaho Department of Insurance
700 West State Str, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0153-0701

012. BASIC REQUIREMENTS.

01. Proof of Completion. As a condition for the continuation of a license, a licensee must furnish the Director of the Department of Insurance ("Director"), on or before the licensing renewal date, proof of satisfactory completion of approved subjects or courses meeting the following requirements: (4-5-00)

a. Twenty-four (24) hours of continuing education credit during each licensing period, which licensing period is for two (2) years. (3-20-04)

b. At least three (3) hours of continuing education credit in insurance law and/or ethics must be earned each licensing period. Such law and/or ethics courses must be stand-alone courses and not part of other courses. (~~3-20-04~~)(____)

02. Relicensing Procedures After Voluntary Termination of License. An insurance agent who voluntarily terminates his/her license can apply to be relicensed without testing if the application is received by the Department within twelve (12) months after the termination and if the continuing education requirements were completed during the licensing period prior to voluntary termination. Non-resident insurance agents who were former resident agents and who wish to obtain a resident license once again, will be subject to the continuing education requirements on a pro-rata basis. (4-5-00)

03. Completion Within Two Years. Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two (2) year period immediately preceding renewal of the license. Courses may not have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam. (3-20-04)

013. EXCEPTIONS/EXTENSION.

01. Excepting and Extension. The following exceptions and extensions may be made to the continuing education rules: (7-1-93)

a. Licensees on extended active duty with the Armed Forces of the United States for the period of such duty and all other exceptions allowed under Section 41-1008(4), Idaho Code. (5-3-03)

b. Persons which hold a temporary license as provided in Section 41-1015, Idaho Code. (5-3-03)

c. Other exceptions and extensions, where good cause exists, as approved by the Continuing Education Advisory Committee or the Director. (4-5-00)

02. Age Exception or Extension. No exception or extension shall be made solely because of age or tenure. (~~7-1-93~~)(____)

03. Application for Exception or Extension Required. Licensees requesting exceptions and extensions pursuant to this Rule must apply prior to the renewal date to the Director, in writing, and set forth the basis for the exception or extension. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

021. APPROVED PROGRAMS OF STUDY - CERTIFICATION BY DIRECTOR.

01. Requirements of Course Approval. All courses must be approved by the Continuing Education Advisory Committee and certified by the Director, except as noted under program requirements pursuant to Section 015. If a course is not approved in advance of presentation, an application for credit must be submitted to the

Continuing Education Advisory Committee within sixty (60) days of completion of the course on forms promulgated by the Director, with the exception of an individual licensee who may submit an application for courses completed within ~~the license renewal period if the licensee does so prior to his/her renewal date~~ one hundred eighty (180) days of the course completion date and at least thirty (30) days prior to the license expiration date. All correspondence courses or individual study programs must be approved and certified in accordance with Section 024 prior to being offered to licensees for continuing education credit. (5-3-03)(____)

02. Nonrefundable Application Fee. Each course application shall be accompanied by a nonrefundable application fee (as set forth in IDAPA 18.01.44). (7-1-93)

03. Course Approval Procedures. Any individual, school, insurer, industry association, or other organization intending to provide classes, seminars, or other forms of instruction as approved subjects shall apply for such approval to the Director on forms approved by the Director or on other forms which provide information including but not limited to the following: (5-3-03)

- a. A specific outline and/or course material; (7-1-93)
- b. Time schedule; (7-1-93)
- c. Method of presentation; (7-1-93)
- d. Qualifications of instructor; and (7-1-93)
- e. Other information supporting the request for approval. (7-1-93)

04. Method to Determine Completion Required. The submission shall include a statement of the method used to determine the satisfactory completion of an approved subject. Such method may be a written examination, a written report by the agent, certification by the providing organization of the agent's program attendance or completion, or other methods approved by the Director as appropriate for the subject. (7-1-93)

05. Final Acceptance/Rejection of Program. Except as noted under Section 015, all continuing education course material received will be submitted to the Continuing Education Advisory Committee who will approve or deny the course or program as qualifying for credit, indicate the number of hours that will be awarded for approved subjects, and refer the class, seminar, or program to the Director for his certification. In cases of denial, the Continuing Education Advisory Committee will furnish a written explanation of the reason for such action. (5-3-03)

06. List of Programs Certified Acceptable. The Director will provide, upon request, a list of all programs currently available which the Department of Insurance has certified. (7-1-93)

07. Certification of Program. Certification of a program may be effective for a period of time not to exceed two (2) years or until such time as any material changes are made in the program, after which it must be resubmitted to the Continuing Education Advisory Committee for its review and approval. (7-1-93)

08. Advertising Programs Prior to Certification. If any course has not been approved and certified by the Director before the date on which it is to be presented, the course may be advertised or presented as "continuing education credits have been applied for" but shall not be represented or advertised in any manner as "approved" for continuing education credit. (5-3-03)

022. PROOF OF COMPLETION.

Upon completion of a class, program, or course of study, the authorized representative of the sponsoring organization shall, within ~~sixty (60)~~ thirty (30) days of completion of the course: (7-1-93)(____)

01. Certificate of Completion. Provide a certificate of completion to each individual who satisfactorily completes the class, program, or course of study; and (7-1-93)

02. Certification of Attendees Completion. Certify to the Director electronically a list of all such individuals, ~~specifying whether the determination of satisfactory completion was based upon attendance, written~~

~~report, or examination.~~

~~(7-1-93)(_____)~~

(BREAK IN CONTINUITY OF SECTIONS)

025. CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, OR SPEAKER.

~~01. **Credit for Instructor.** One (1) hour of continuing education credit will be awarded for each hour completed as an instructor or discussion leader, provided the class or program is certified by the Director and meets the continuing education requirements of those attending.~~ ~~(7-1-93)(_____)~~

~~02. **Additional Credit for Instructor.** In addition, an instructor or discussion leader may claim an additional one (1) hour of credit for advance preparation for each one (1) hour of teaching, provided the time is actually devoted to preparation. For example, an instructor may claim up to twelve (12) hours of credit for teaching a six (6) hour course. Credit for either preparation or presentation will only be granted once for each course or program, not for successive preparation or presentations.~~ ~~(7-1-93)~~

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS
DOCKET NO. 18-0160-0701
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 41-211.

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 October 17, 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 rulemaking amends IDAPA 18.01.60.027 by removing ambiguous language and clarifying training requirements for insurance producers selling long term care insurance policies that qualify for Idaho's Long Term Care Insurance Partnership Program.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes simply clarify existing requirements and do not impose any new training requirements for producers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joan Krosch at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 14th day of August, 2007.

Shad Priest
Deputy Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0160-0701

027. STANDARDS FOR MARKETING AND PRODUCER TRAINING.

01. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its producers, shall: (3-30-07)

a. Establish marketing procedures and producer training requirements to assure that any marketing activities, including any comparison of policies by its producers will be fair and accurate. (3-30-07)

b. Establish marketing procedures to assure excessive insurance is not sold or issued. (4-5-00)

c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations." (4-5-00)

d. Provide copies of the disclosure forms required in Subsection 009.10. (3-30-01)

e. Provide an explanation of contingent benefit upon lapse as provided for in Subsection 032.04.b. and if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying period in Subsection 032.04.c. (3-30-07)

f. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required. (4-5-00)

g. Establish auditable procedures for verifying compliance with Subsection 027.01. (3-30-07)

h. At solicitation, provide written notice to the prospective policyholder and certificate holder that Senior Health Insurance Benefits Advisors/SHIBA the program is available and the name, address and telephone number of the program. (3-30-01)

i. For long-term care insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsection 011.01.c. of this chapter. (3-30-07)

02. Prohibited Practices. In addition to the practices prohibited in Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds, the following acts and practices are prohibited: (3-30-01)

a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer. (4-5-00)

b. High Pressure Tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (4-5-00)

c. Cold Lead Advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company. (3-30-07)

d. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy. (4-5-00)

03. Associations. With respect to the obligations set forth in Subsection 027.03, the primary responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

(3-30-07)

- a.** The insurer shall file with the insurance department the following material: (4-5-00)
 - i.** The policy and certificate; (4-5-00)
 - ii.** A corresponding outline of coverage; and (4-5-00)
 - iii.** All advertisements to be utilized. (4-5-00)
- b.** The association shall disclose in any long-term care insurance solicitation: (4-5-00)
 - i.** The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and (4-5-00)
 - ii.** A brief description of the process under which the policies and the insurer issuing the policies were selected. (4-5-00)
- c.** If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members. (4-5-00)
- d.** The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer. (4-5-00)
- e.** The association shall also: (4-5-00)
 - i.** At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change; (4-5-00)
 - ii.** Actively monitor the marketing efforts of the insurer and its producers; and (3-30-07)
 - iii.** Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates. (4-5-00)
 - iv.** Subsections 027.03.e.i. through 027.03.e.iii. shall not apply to qualified long-term care insurance contracts. (3-30-07)
- f.** No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information required in Section 027. (3-30-07)
- g.** The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 027. (3-30-07)
- h.** Failure to comply with the filing and certification requirements of Section 027 constitutes an unfair trade practice in violation of Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds. (3-30-07)

04. Producer Training Requirements. An individual may not sell, solicit or negotiate long-term care

insurance unless the individual is licensed as an insurance producer for life and disability (accident and health insurance) and has completed a one-time training course ~~by or before November 1, 2007~~, and ongoing training every twenty-four (24) months thereafter. The training shall meet the requirements set forth in this Subsection 027.04. Such training requirements may be approved as continuing education course under IDAPA 18.01.53 “Continuing Education.” (3-30-07)(____)

a. The one-time training course required by this section shall be no less than eight (8) hours, ~~and in addition to the one-time training course, an individual who sells, solicits, or negotiates long-term care insurance shall complete the ongoing training required by this Subsection 027.04, which shall be no less than four (4) hours every 24 months.~~ (3-30-07)(____)

b. The training required under Subsection 027.04.a. shall consist of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership program, including, but not limited to: (3-30-07)

i. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid; (3-30-07)

ii. Available long-term care services and providers; (3-30-07)

iii. Changes or improvements in long-term care services or providers; (3-30-07)

iv. Alternatives to the purchase of private long-term care insurance; (3-30-07)

v. The effect of inflation on benefits and the importance of inflation protection; and (3-30-07)

vi. Consumer suitability standards and guidelines. (3-30-07)

c. The training required by Subsection 027.04. shall not include any sales or marketing information, materials, or training, other than those required by state and federal law. (3-30-07)

d. Insurers subject to this rule shall obtain verification that a producer receives training required by Subsection 027.04 before a producer is permitted to sell, solicit or negotiate the insurer’s long-term care insurance products, maintain records subject to the state’s record retention requirements, and make that verification available to the director upon request. An insurer shall maintain records with respect to the training of its producers concerning the distribution of its long-term care Partnership policies that will allow the Department of Insurance to provide assurance to the Division of Medicaid that the producers have received the training as required by Subsection 027.04 and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long term care including Medicaid in this state. These records shall be maintained in accordance with the state’s record retention requirements and shall be made available to the director upon request. (3-30-07)

e. The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements of this state. (3-30-07)

IDAPA 19 - STATE BOARD OF DENTISTRY
19.01.01 - RULES OF THE STATE BOARD OF DENTISTRY
DOCKET NO. 19-0101-0701 (FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-912, 54-916, and 54-920, Idaho Code.

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

October 17, 2007 - 10:00 am
Office of the Idaho Board of Dentistry
350 North 9th Street, Suite M-100, 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:

The proposed rule changes increase the fees for the application for licensure of dentists and dental hygienists. They also increase the biennial license fees of dentists and dental hygienists.

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

The proposed rule will increase the licensure application fee for the following: Dentists licenses by exam, fee increases from \$100 to \$300; Dental Hygienists licensed by exam from \$50 to \$150. These are authorized by 54-916, Idaho Code.

The proposed rule will increase the biennial licensure fee for the following: Dentist Active Status license increases from \$300 to \$375; Dentist inactive status license increases from \$150 to \$160; Dental Hygienist Active Status license increases from \$140 to \$175; Dental Hygienist license inactive status increases from \$80 to \$85. These are authorized by 54-920, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the relatively simple nature of the rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Arthur R. Sacks, 208-334-2369.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 24th day of August, 2007.

Arthur R. Sacks, Executive Director
Idaho State Board of Dentistry
350 North 9th Street, Suite M100, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0021
Phone: 208-334-2369 / Fax: 208-334-3247

THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-0701

012. LICENSE AND APPLICATION FEES (RULE 12).

The license fees and application fees shall be as follows:

(3-30-07)

01. Application Fees for Dentists:

(7-1-91)

a. General:

(3-18-99)

i. By examination -- ~~one~~ three hundred dollars (~~\$1~~300).

~~(3-18-99)~~()

ii. By credentials -- six hundred dollars (\$600).

(3-18-99)

b. Specialty:

(7-1-91)

i. By examination -- ~~one~~ three hundred dollars (~~\$1~~300).

~~(7-1-91)~~()

ii. By credentials -- six hundred dollars (\$600).

(3-18-99)

02. Application Fees for Dental Hygienists:

(7-1-91)

a. By examination -- one hundred fifty dollars (\$150).

~~(7-1-91)~~()

b. By credentials -- one hundred ~~and fifty~~ dollars (\$150).

~~(7-1-92)~~()

03. Biennial License Fees for Dentists:

(3-30-07)

a. Active -- three hundred seventy-five dollars (~~\$300~~75).

~~(3-30-07)~~()

b. Inactive -- one hundred ~~and fifty~~ sixty dollars (~~\$150~~60).

~~(3-30-07)~~()

c. Specialty -- three hundred seventy-five dollars (~~\$300~~75).

~~(3-30-07)~~()

04. Biennial License Fees for Hygienists:

(3-30-07)

a. Active -- one hundred ~~and forty~~ seventy-five dollars (~~\$140~~75).

~~(3-30-07)~~()

b. Inactive -- eighty-five dollars (~~\$80~~5).

~~(3-30-07)~~()

05. Application Fees for General Anesthesia and Conscious Sedation Permits:

(4-2-03)

a. Initial Application -- three hundred dollars (\$300).

(4-2-03)

b. Renewal Application -- three hundred dollars (\$300).

(4-2-03)

c. Reinstatement Application -- three hundred dollars (\$300).

(4-2-03)

IDAPA 20 - DEPARTMENT OF LANDS
20.02.06 - ADMINISTRATION OF IDAHO'S REFORESTATION LAW
DOCKET NO. 20-0206-0701 (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 proposed rulemaking. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before October 17, 2007. If no such written request is received, a public hearing will not be held.

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

During the 1995 legislative session, the Legislature enacted Senate Bill 1088, repealing Chapter 2, Title 38, Idaho Code, the "Reforestation Law."

The purpose of this rulemaking is to repeal the Idaho Department of Lands (IDL) IDAPA 20.02.06 "Administration of Idaho's Reforestation Law," the regulatory framework for the Reforestation law that was repealed during the 1995 legislative session.

After consideration of public comments, IDL intends to present the final proposal to the State Board of Land Commissioners at their November 15, 2007 meeting for adoption of a pending rule. The repeal is expected to be final and effective upon the conclusion of the 2008 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about IDL's programs and activities, visit IDL's web site at <http://www.idl.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before October 24, 2007.

DATED this 24th day of September, 2007.

Ronald A. Litz
Division Administrator, Forestry & Fire
954 W Jefferson
Boise, Idaho 83720-0050
(208)334-0200
Fax No. (208)334-3698
rlitz@idl.idaho.gov

IDAPA 20.02.06 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 20 - DEPARTMENT OF LANDS
20.02.12 - RULES OF THE COMMUNITY AND URBAN FORESTRY TRUST ACCOUNT
DOCKET NO. 20-0212-0701 (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 proposed rulemaking. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before October 17, 2007. If no such written request is received, a public hearing will not be held.

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

The purpose of this rulemaking is to repeal the Idaho Department of Lands (IDL) IDAPA 20.02.12, "Rules of the Community and Urban Forestry Trust Account," because the statutory authority contained in Section 38-136, Idaho Code, provides the necessary direction to manage this account.

After consideration of public comments, IDL intends to present the final proposal to the State Board of Land Commissioners at their November 15, 2007 meeting for adoption of a pending rule. The repeal is expected to be final and effective upon the conclusion of the 2008 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about IDL's programs and activities, visit IDL's web site at <http://www.idl.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before October 24, 2007.

DATED this 24th day of September, 2007.

Ronald A. Litz
Division Administrator, Forestry & Fire
954 W Jefferson
Boise, Idaho 83720-0050
(208)334-0200
Fax No. (208)334-3698
rlitz@idl.idaho.gov

IDAPA 20.02.12 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 20 - DEPARTMENT OF LANDS

20.03.04 - RULES GOVERNING THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Idaho Code 67-5221(1) and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners" (Board), Sections 830 through 835, notice is hereby given that this agency has initiated proposed rulemaking procedures. This proposed rulemaking is authorized pursuant to Section 58-104(6), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking, and changes to 20.03.17, will be held on:

October 10th, 2007 -- 8 am to 5 pm
3780 Industrial Avenue South
Coeur d'Alene, Idaho

The purpose of the hearing is to gather public comments on the proposed rules. 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 Idaho Department of Lands (IDL) is initiating this rulemaking partly in response to changes in Title 58, Chapter 13, Idaho Code made during the 2006 legislative session. These changes allowed higher permit fees to be collected. This rulemaking is also needed to clear up numerous conflicts between the rules and Title 58, Chapter 13, Idaho Code and to clarify several unclear sections that hinder effective program administration. The issues to be addressed by this rulemaking include, but are not limited to, increasing the permit fees, clarifying the definitions of commercial and community marinas, allowing commercial marinas to have up to 50% private moorage under certain conditions, changing some hearing processes, specifying floathome standards, authorizing temporary permits, and simplifying enforcement actions. This rulemaking will be conducted in conjunction with the IDAPA 20.03.17 rulemaking.

FEE SUMMARY: The following is a specific description of the application fees:

Single and two-family docks within the line of navigability are \$250; single and two-family docks outside the line of navigability are \$1,000; community and commercial docks are \$2,000; nonnavigational encroachments are \$1,000. For commercial docks, if the actual cost of processing the permit exceeds \$2,000, then the department may charge an additional amount subject to Title 58, Chapter 13, Idaho Code, Section 58-1307. These fee amounts will also be the maximum fees for temporary permits. Assignment fees are set at \$150.

FISCAL IMPACT: This is a general fund program. The department anticipates a positive fiscal impact of approximately \$156,000 on the state general fund due to increased application and assignment fees.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 6, 2007 Idaho Administrative Bulletin, Vol. 07-6 page 77. Negotiations were conducted over six (6) meetings in June and July, 2007.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Eric Wilson, (208) 334-0261 or ewilson@idl.idaho.gov. More information is also at <http://www.idl.idaho.gov/adminrule/rulemaking.html>

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2007.

DATED this 21st day of August, 2007.

Eric Wilson
Navigable Waters/Minerals Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103, Boise, Idaho 83702
Phone (208) 334-0261/ Fax (208) 334-3698
ewilson@idl.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0304-0701

000. LEGAL AUTHORITY.

The State Board of Land Commissioners is authorized by Sections 58-104(9) and 58-1301, et seq., Idaho Code, to adopt these rules for the regulation of the beds, waters and airspace over navigable lakes in the state of Idaho. This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Sections 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Title 58, Chapter 13, Idaho Code; and Title 67, Chapter 52, Idaho Code. (7-1-98)()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.03.04, "Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho," ~~IDAPA 20.03.04.~~ ()

02. Scope. These rules ~~regulate~~ govern encroachments on, in, or above navigable lakes in the state of Idaho. (7-1-98)()

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretive statements pertaining to the interpretation of rules in this chapter. The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and informal opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General opinions, and other written interpretations, if applicable, are available for public inspection and copying at the director's office of the Idaho Department of Lands, Boise, Idaho, or are available on the internet at www.idl.idaho.gov. (7-1-98)()

003. ADMINISTRATIVE APPEALS.

Hearings and administrative appeals are available only as set forth herein under the rules governing the processing of applications for non-commercial single-family and two-family encroachments, Section 025; and the rules governing the processing of applications for all other types of encroachments, Section 030; and the rules governing revocation of encroachment permits, Section 040. Any person aggrieved by any final decision or order of the board shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01, Title 58, Chapter 13, Sections 58-1305 and 58-1306, Idaho Code, and Sections 025, 030, and 080 of these rules. (7-1-98)()

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: ()

01. International Building Code©, 2006 Edition published by the International Code Council© and available on the Internet at: <http://www.iccsafe.org>. ()

02. United States Aid to Navigation System. Prepared by the United States Coast Guard and available

on the Internet at: <http://www.uscgboating.org/safety/aton/system.htm>. ()

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Department of Lands is in Boise, Idaho and it is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone number of the office is (208) 334-0200. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

~~0047.~~ -- 009. (RESERVED).

010. DEFINITIONS.

01. Adjacent. Contiguous or touching, and with regard to land or land ownership having a common boundary. (7-1-98)

02. Aids to Navigation. Buoys, warning lights, and other encroachments in aid of navigation intended to improve waterways for navigation. ()

023. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line. (9-13-90)()

034. Beds of Navigable Lakes. The lands lying under or below the “natural or ordinary high water mark” of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one. (9-13-90)

045. Board. The Idaho State Board of Land Commissioners of the State of Idaho or its authorized representative designee. (9-13-90)()

06. Boat Garage. A structure with one or more slips that is completely enclosed with walls, roof, and doors, but no temporary or permanent residential area. ()

07. Boat Lift. A mechanism for mooring boats partially or entirely out of the water. ()

08. Boat Ramp. A structure or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers. ()

059. Commercial Navigational Encroachment or Commercial Marina. A navigational encroachment for the use of which patrons pay a fee whose primary purpose is to provide moorage for rental or for free to the general public. (9-13-90)()

~~**0610. Community Docks.** SA structures that provides private moorage facilities for more than two (2) adjacent riparian littoral owners, or for a homeowners’ association that is a riparian other littoral owners owning possessing a riparian littoral common area including riparian with littoral rights including, but not limited to homeowner’s associations. A community dock shall not have less than fifty (50) feet combined shoreline frontage. A community dock shall be considered a commercial navigational aid for purposes of processing the application. No public access is required for a community dock.~~ (3-19-99)()

~~**07. Contested Case Hearing.** A formal hearing conducted pursuant to these rules, Idaho Code, Title 67, Chapter 52, and IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.” This type of hearing requires the formal designation of parties as set forth in the Board’s Rules of Practice and Procedure, IDAPA 20.01.01, and is conducted like a trial. Members of the public not wishing to formally intervene in contested case hearings as a party may nevertheless participate in such hearings as public witnesses pursuant to IDAPA 20.01.01.~~ (7-1-98)

- 11. Covered Slip.** A slip, or group of slips, with a tubular frame, fabric canopy, and no eaves. ()
- ~~08~~**12. Department.** The Idaho Department of Lands or its designee. (9-13-90)()
- ~~09~~**13. Director.** The ~~director~~ head of the Idaho Department of Lands or his designee. (9-13-90)()
- 104. Encroachments in Aid of Navigation.** Includes docks, piers, ~~floats~~, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other ~~such aids to navigability~~ facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” may be used interchangeably herein with the term “navigational encroachments.” (3-19-99)()
- ~~15~~**15. Encroachments Not in Aid of Navigation.** Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation. It shall also include float homes ~~moored permanently or in any one (1) place for a substantial period of time and used as either a permanent or temporary place of abode or residence~~ and floating toys. The term “encroachments not in aid of navigation” may be used interchangeably herein with the term “nonnavigational encroachments.” (9-13-90)()
- 16. Floating Home or Float Home.** A structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling and is not self-propelled. These structures are usually dependent for utilities upon a continuous utility linkage to a source originating on shore, and must have either a permanent continuous connection to a sewage system on shore, or an alternative method of sewage disposal that does not violate local, state, or federal water quality and sanitation regulations. ()
- 17. Floating Toys.** Non-navigational encroachments including, but not limited to, trampolines, inflatable structures, water ski courses, and other recreational equipment not moored to a dock. ()
- 18. Jet Ski Ramp, Port, or Lift.** A mechanism for mooring jet skis or other personal watercraft similar to a boat lift. The lifts may be free standing or attached to a dock or pier. ()
- ~~19~~**19. Line of Navigability.** ~~The dock line established by existing docks or if no dock line exists then such distance below the low water mark as will afford sufficient draft for water craft customarily in use on that particular body of water.~~ A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water in question. (7-1-98)()
- ~~32~~**20. Low Water Mark.** That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation. (7-1-98)()
- 21. Moorage.** A place to secure float homes and watercraft including, but not limited to, boats, personal watercraft, jet skis, etc. ()
- ~~42~~**22. Natural or Ordinary High Water Mark.** The high water elevation in a lake over a period of years, uninfluenced by man made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. (9-13-90)
- ~~52~~**23. Navigable Lake.** Any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes, and includes This definition does not include man-made reservoirs ~~except~~ where the jurisdiction thereof is asserted and exclusively assumed by a federal agency. (9-13-90)()
- ~~62~~**24. Party.** Each person or agency named or admitted as a party, or property seeking and entitled as of

right to be admitted as a party to a hearing on an application for an encroachment. (9-13-90)

~~1725.~~ **Person.** *Any individual,* partnership, association, *company,* corporation, *municipality, county, state or federal agency,* natural person, or *other* entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government. (9-13-90)()

~~26.~~ **Piling.** A metal, concrete, plastic, or wood post that is placed into the lakebed and used to secure floating docks and other structures. ()

~~1827.~~ **Plans.** Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same. (9-13-90)

~~1928.~~ **Public Meeting Hearing.** The type of hearing where members of the public are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated representative of the Department who shall act as the hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record of any oral presentations at such hearings will be taken by the Department by tape recorder. The hearing coordinator shall exercise such control at hearings as necessary to maintain order, decorum and common courtesy among the participants. (7-1-98)()

~~209.~~ **Public Trust Doctrine.** The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code. (3-19-99)

~~30.~~ **Pylon.** A metal, concrete, or wood post that is placed into the lakebed and used to support fixed piers. ()

~~231.~~ **Riparian or Littoral Rights.** ~~Only~~ ~~†~~The rights of owners or lessees of land adjacent to navigable ~~lakes and~~ waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters ~~or to remove bed materials from state-owned lakebeds of the lake.~~ (3-19-99)()

~~232.~~ **Riparian or Littoral Owner.** The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed or grant. (7-1-98)()

~~33.~~ **Riparian or Littoral Right Lines.** Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline. ()

~~34.~~ **Side Tie.** Moorage for watercraft where the dock or pier is on only one (1) side of the watercraft. ()

~~235.~~ **Single-Family Dock.** A structure providing noncommercial moorage *facilities* that serves one (1) waterfront ~~lot having frontage of~~ owner whose waterfront footage is no less than twenty-five (25) feet. (7-1-98)()

~~36.~~ **Slip.** Moorage for boats with pier or dock structures on at least two (2) sides of the moorage.()

~~2437.~~ **Submerged Lands.** The state-owned beds of navigable lakes, rivers and streams below the natural or ordinary high water marks. (9-13-90)

~~2538.~~ **Two-Family Dock.** A structure providing noncommercial moorage *facilities* that serves two (2) adjacent waterfront ~~lots~~ owners having a combined frontage waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common ~~riparian littoral~~ property line. (7-1-98)()

~~2639.~~ **Uplands.** The land bordering on navigable lakes, rivers, and streams. (9-13-90)()

011. ABBREVIATIONS.

01. IDAPA. Idaho Administrative Procedure Act. ()

02. ATON. Aids to Navigation. ()

0142. POLICY.

01. Environmental Protection and Navigational or Economic Necessity. It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the State Board of Land Commissioners to regulate and control the use or disposition of state-owned lake beds, so as to provide for their commercial, navigational, recreational or other public use. (9-13-90)

02. No Encroachments Without Permit. No encroachment on, in or above the beds or waters of any navigable lake in the state shall hereafter be made unless approval therefore has been given as provided in these rules. An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho. (9-13-90)()

03. Permitting of Existing Encroachments. ()

a. The provisions of Title 58, Chapter 13, Section 58-1312, Idaho Code, shall apply. ()

b. Any new encroachments, or any unpermitted encroachments constructed after January 1, 1975, shall be subject to these rules. ()

~~0123.~~ -- **014. (RESERVED).**

015. ~~DOCK ENCROACHMENT STANDARDS AND FLOAT HOME REQUIREMENTS.~~

01. Single-Family and Two-Family Docks. The following parameters govern the size and dimensions of single-family docks and two-family docks. (7-1-98)

a. No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark shall exceed ten (10) feet in width, excluding the slip cut out. (3-19-99)()

b. Total surface decking area waterward of the natural or ordinary or artificial high water mark shall not exceed seven hundred (700) square feet, including approach ramp and walkway for a single-family dock and shall not exceed one thousand one hundred (1,100) square feet, including approach ramp and walkway for a two-family dock. (7-1-98)()

c. No portion of the docking facility shall extend ~~more than one hundred (100) feet waterward of the natural or ordinary high water mark or if applicable the artificial high water mark or further than three (3) feet of water depth at low water~~ beyond the line of navigability. Shorter docks are encouraged whenever practical and new docks normally will be installed within the waterward extent of existing docks or the line of navigation. (7-1-98)()

d. ~~Where feasible, all docks, piers or similar structures shall be constructed to protrude as nearly as possible perpendicular to the general shoreline.~~ (7-1-98)

~~02d.~~ **Variance.** A variance to the standards contained in Subsection 015.01 of these rules may be approved by the ~~director~~ department where it can be justified by site specific considerations such as the distance to

the established line of navigation. (7-1-98)()

032. Community Docks. (7-1-98)

a. A community dock shall be considered a commercial navigational aid for purposes of processing the application. ()

b. No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark shall exceed ten (10) feet in width except breakwaters when justified by site specific conditions and approved by the department. No part of the fixed portion of the dock shall exceed ten (10) feet in width. This includes fixed piers and approach ramps. (3-19-99)()

c. A community dock shall not have less than fifty (50) feet combined shoreline frontage. Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock shall be limited to the product of the length of shoreline multiplied by seven (7) square feet per lineal feet or a minimum of seven hundred (700) square feet. However, the Department, at its discretion, may limit the ultimate size when evaluating the proposal and public trust values. (3-19-99)()

d. If a breakwater will be incorporated into the structure of a dock, and a need for the breakwater can be demonstrated, the department may allow the surface decking area to exceed the size limitations of Paragraph 015.02.c of these rules. ()

e. A person with an existing community dock that desires to change the facility to a commercial marina must submit a new application for an encroachment permit to the department for approval. The proposal must describe in text and drawings which moorage will be public and which moorage will be private. ()

03. Commercial Marina. ()

a. Commercial marinas must have a minimum of fifty percent (50%) of their moorage available for use by the general public. Such use may range from providing day moorage on a first come, first served basis for free or rent to renting or leasing moorage for a period of time up to one (1) year. Available for use by the general public does not include the following: ()

i. Conditions that require purchase of a boat, moorage, parcel of property, condominium unit, or membership in a club or organization. ()

ii. Conditions that require rental of a room, apartment, condominium unit, residence, campsite, or parcel of property. ()

iii. Locked gates during normal business hours that prevent the general public from accessing the docks. ()

b. Moorage that is not available for public use is private moorage. Private moorage may be created when one (1) of the following occurs: ()

i. Moorage is rented or leased for longer than one (1) year. ()

ii. Moorage is acquired with a purchase or rental as described in Subparagraph 015.03.a.i. through 015.03.a.ii. of these rules. ()

c. When calculating the moorage percentage, the amount of public moorage shall be compared to the amount of private moorage. Commercial marinas with private float home slips shall be required to provide either a non-private float home slip or two (2) public use boat slips for every private float home slip in addition to any other required public use boat slips. ()

d. When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.c. of these rules. ()

e. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina, and private submerged land, if present. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA 20.03.17, "Rules Governing Leases on State-Owned Submerged lands and Formerly Submerged Lands." ()

f. Commercial marinas shall provide a minimum of upland vehicle parking equivalent to one (1) parking space per two (2) watercraft moorages that are available for use by the general public, and one (1) parking space per two (2) float home moorages. Local city or county ordinances governing parking requirements for marinas will apply if such have been enacted. ()

g. If a commercial marina can be accessed from a road, the public must be allowed access via that road. ()

h. Existing commercial marinas that desire to change their operations and convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the general public. This change in operations must be approved by the department through a new encroachment permit prior to implementation of the change. The permit application shall describe, in text and in drawings, which moorage will be public and which moorage will be private. ()

04. Covered Slip. ()

a. Covered slips, regardless of when constructed, may not have a temporary or permanent residential area. ()

b. Slip covers should have colors that blend with the natural surroundings and are approved by the department. ()

c. Covered slips with permanent roofs and up to three (3) walls may be maintained or replaced at their current size if they were previously permitted or if they were constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages. ()

d. Fabric covered slips must be constructed as canopies without sides unless the following standards are followed: ()

i. At least two (2) feet of open space is left between the bottom of the cover and the dock or pier surface; and ()

ii. Fabric for canopy and sides will transmit at least seventy-five percent (75%) of the natural light. ()

05. Boat Garage. ()

a. Boat garages are considered nonnavigational encroachments. ()

b. Applications for permits to construct new boat garages, or to expand the total square footage of the existing footprint, will not be accepted unless the application is to support local emergency services. ()

c. Existing permitted boat garages may be maintained or replaced at their current size. ()

d. Relocation of an existing boat garage will require a permit. ()

046. Breakwaters. Breakwaters built upon the lake for use in aid of navigation will not be authorized below the level of normal low water without an extraordinary showing of need, provided, however that this shall not apply to floating breakwaters secured by piling and used to protect private property from recurring wind, wave, or ice damage, or used to control traffic in busy areas of lakes. The breakwater shall be designed to counter wave actions of

known wave heights and wave lengths. (7-1-98)()

07. Seawalls. Seawalls should be placed at or above the ordinary high water mark, or the artificial high water mark, if applicable. Seawalls are not an aid to navigation, and placement waterward of the ordinary or artificial high water mark will generally not be allowed. ()

08. Riprap. ()

a. Riprap used to stabilize shorelines will consist of rock that is appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock shall be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap shall overlie a distinct filter layer which consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer shall be keyed into the bed below the ordinary or artificial high water mark, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho. ()

b. Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into the bed and may not require a filter layer, at the department's discretion. ()

059. Mooring Buoys. Buoys shall be installed a minimum of thirty (30) feet away from riparian littoral right lines of adjacent riparian littoral owners. One (1) mooring buoy per riparian littoral owner shall be allowed. (3-19-99)()

0610. Float Homes—Construction, Alteration or Relocation. (7-1-98)()

a. Applications for permits to construct new float homes, or to expand the total square footage of the existing footprint, will not be accepted. (7-1-98)()

b. Applications for relocation of float homes existing prior to April 5, 1974, within a lake or from one lake to another shall be subject to the following requirements: (7-1-98)()

i. Proof of ownership or long term lease of the uplands adjacent to the relocation site must be furnished to the Department. (7-1-98)

ii. The applicant must show that all wastes and waste water will be transported to shore disposal systems by a method approved by the Idaho Department of Environmental Quality or the appropriate local health authority. Applicant must either obtain a letter from the local sewer district stating that the district will serve the float home or demonstrate that sewage will be appropriately handled and treated. Applicant must also provide a statement from a professional plumber licensed in the state of Idaho that the plumbing was designed according to the International Building Code, installed properly, and has been pressure tested. (7-1-98)()

c. Encroachment Applications and approved local permits are required for replacement or enlargement of float homes. Adding another story to a float home shall require a permit of, or adding another story to, a float home. (7-1-98)()

d. All plumbing and electrical work on float homes must be done in accordance with the International Building Code. ()

e. All float homes that are hooked to upland sewer or septic systems must be inspected and certified every year by a professional plumber licensed in the state of Idaho. Permittees or their designee are responsible for providing this documentation to the department. ()

11. Excavated or Dredged Channel. ()

a. Excavating, dredging, or redredging channels shall require an encroachment permit and shall be processed in accordance with Section 030 of these rules. ()

b. An excavated or dredged channel or basin to provide access to navigable waters must have a clear environmental, economic, or social benefit to the people of the state, and shall not result in any appreciable environmental degradation. A channel or basin shall not be approved if the cumulative effects of these features in the same navigable lake would be adverse to fisheries or water quality. ()

c. Whenever practical, such channels or basins shall be located to serve more than one (1) littoral owner; provided, however, that no basin or channel will be approved that will provide access for watercraft to nonlittoral owners. ()

12. ATONs. Aids to Navigation will conform to the requirements established by the United States Aid to Navigation system. ()

13. General Encroachment Standards. ()

a. Square Footage. The square footage requirements in Subsections 015.01 and 015.02 include all structures beyond the ordinary or artificial high water mark such as the approach, ramp, pier, dock, and all other floating or suspended structures that cover the lake surface, except for: ()

i. Boat lifts that provide less shading than dock structures and as described in Paragraph 015.13.b. ()

ii. Jet ski ramp, port, or lift as described in Paragraph 015.13.b. ()

iii. Slip covers. ()

iv. Undecked portions of breakwaters. ()

b. Boat Lifts and Jet Ski Lifts. ()

i. Single-family docks are allowed a single boat lift and two (2) jet ski lifts, or two (2) boat lifts, without adding their footprint to the dock square footage. Additional lifts will require that fifty percent (50%) of the footprint of the largest lifts be included in the allowable square footage of the dock or pier as per Subsection 015.01. ()

ii. Two-family docks are allowed two (2) boat lifts and four (4) jet ski lifts, or four (4) boat lifts, without adding their footprint to the dock square footage. Additional lifts will require that fifty percent (50%) of the footprint of the largest lifts be included in the allowable square footage of the dock or pier as per Subsection 015.01. ()

iii. Community docks are allowed one (1) boat lift or two (2) jet ski lifts per moorage. Lifts placed outside of a slip shall be oriented with the long axis parallel to the dock structure. Additional lifts will require that fifty percent (50%) of their footprint be included in the allowable square footage of the dock or pier as per Subsection 015.02. ()

c. Angle from Shoreline. ()

i. Where feasible, all docks, piers, or similar structures shall be constructed so as to protrude as nearly as possible at right angles to the general shoreline, lessening the potential for infringement on adjacent littoral rights. ()

ii. Where it is not feasible to place docks at right angles to the general shoreline, the department shall work with the applicant to review and approve the applicant's proposed configuration and location of the dock and the dock's angle from shore. ()

d. Length of Community Docks and Commercial Marinas. Docks, piers, or other works may extend to a length that will provide access to a water depth that will afford sufficient draft for water craft customarily in use on the particular body of water, except that no structure may extend beyond the normal accepted line of navigability

established through use unless additional length is authorized by permit or order of the director. If a normally accepted line of navigability has not been established through use, the director may from time to time as he deems necessary, designate a line of navigability for the purpose of effective administration of these rules. ()

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have a like adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments shall be subject to the above presumptions of adverse affects. ()

f. Weather Conditions. Encroachments and their building materials shall be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures shall be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices for docks, float homes, etc. shall be reasonably resistant to puncture and other damage. ()

g. Markers. If the department determines that an encroachment is not of sufficient size to be readily seen or which poses a hazard to navigation, the permit shall specify that aids to navigation be used to clearly identify the potential hazard. ()

h. Overhead Clearance. ()

i. Overhead clearance between the natural or ordinary high water mark or the artificial high water mark, if there be one, and the structure or wires must be sufficient to pass the largest vessel which may reasonably be anticipated to use the subject waters in the vicinity of the encroachment. In no case will the clearance be required to exceed thirty (30) feet unless the department determines after public hearing that it is in the overall public interest that the clearance be in excess of thirty (30) feet. Irrespective of height above the water, approval of structures or wires presenting a hazard for boating or other water related activities may be conditioned upon adequate safety marking to show clearance and otherwise to warn the public of the hazard. The department shall specify in the permit the amount of overhead clearance and markings required. ()

ii. When the permit provides for overhead clearance or safety markings under Paragraph 015.13.h, the department shall consider the applicable requirements of the United States Coast Guard, the Idaho Transportation Department, the Idaho Public Utilities Commission and any other applicable federal, state, or local regulations. ()

i. Beaded Foam Flotation. Beaded foam flotation shall be completely encased in a manner that will maintain the structural integrity of the foam. The encasement shall be resistant to the entry of rodents. ()

016. -- 019. (RESERVED).

020. APPLICATIONS.

01. Encroachment Applications. No person shall hereafter make or cause to be made any encroachment on, in or above the beds or waters of any navigable lake in the state of Idaho without first making application to and receiving written approval from the ~~director~~ department. The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho shall be considered an encroachment and written approval by the ~~director~~ department is required. If demolition is required prior to construction of the proposed encroachment, then the application must describe the demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued. (9-13-90)()

02. Signature Requirement. Only persons who are ~~riparian~~ littoral owners or lessees of a ~~riparian~~ littoral owner shall be eligible to apply for encroachment permits. A person who has been specifically granted ~~riparian~~ littoral rights or dock rights from a ~~riparian~~ littoral owner shall also be eligible for an encroachment permit; the grantor of such ~~riparian~~ littoral rights, however, shall no longer be eligible to apply for an encroachment permit.

Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. (7-1-98)()

03. Other Permits. Nothing in these rules shall excuse a person seeking to make an encroachment from obtaining any additional approvals lawfully required by federal, local or other state agencies. (9-13-90)

04. Repairs, ~~Replacement~~ Reinstallation of Structures. ~~Approval is not~~ No permit is required to clean, maintain, or ~~to make~~ repairs ~~to~~ an existing permitted encroachment, but ~~approval a permit~~ is required to completely replace, enlarge, or extend an existing encroachment. ~~Replacing~~ Reinstalling the top or deck of a dock, wharf or similar structure shall be considered a repair; ~~replacing~~ reinstallation of winter damaged or wind and water damaged pilings, docks, or float logs ~~used to maintain existing encroachments in position~~ shall be considered a repair. ~~Redredging a channel or basin shall be considered a replacement and a permit is necessary unless redredging is authorized by the outstanding permit. Dredging of a channel or basin will require a new permit. Complete replacement of the entire dock at one (1) time exactly to the same specifications of the currently existing dock is considered a repair and will not require a new permit so long as dock is made to the same configuration in the same location.~~ Repairs that adversely affect the bed of the lake will be considered a violation of these rules. (3-19-99)()

05. Dock Reconfiguration. ()

a. Rearrangement of single-family and two-family docks will require a new application for an encroachment permit. ()

b. Rearrangement of community and commercial docks may not require a new application for an encroachment permit if the changes are only internal. The department shall be consulted prior to modifications being made, and shall use the following criteria to help determine if a new permit must be submitted: ()

i. Overall footprint does not change in dimension or orientation; ()

ii No increase in square footage, as per Paragraph 015.13.a., occurs; ()

iii. The entrances and exits of the facility do not change. ()

06. Redredging. Redredging a channel or basin shall be considered a new encroachment and a permit is required unless redredging is specifically authorized by the outstanding permit. Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permit. ()

057. Forms, Filing. Applications must be in writing on forms provided by the Department or copies. Applications and plans shall be filed in the local office of the Department ~~in Coeur d'Alene, whose location is available on the internet at www.idl.idaho.gov. or the director's office in Boise,~~ together with filing fees and costs of publication ~~where~~ when required by these rules; ~~except that applications and plans for noncommercial navigational encroachments may be filed at any supervisory field office. Plans shall include a lakebed profile in relationship to the proposed encroachment. The lakebed profile shall show the summer and winter water levels. The plan shall show, where possible, the lengths of adjacent docks as an indication of the line of navigability. The plans shall show the relationship of the proposed encroachment in the lake and indicate a general vicinity map. The plans shall be presented on paper no larger than eight and one half by fourteen (8 1/2" x 14") inches.~~ Costs of preparation of the application, including all necessary maps and drawings, shall be paid by the applicant. (7-1-98)()

a. Plans shall include the following information on paper no larger than eight and one half by fourteen (8 1/2"x14") inches: ()

i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile shall show the summer and winter water levels. ()

ii. Copy of most recent survey or county plat showing the full extent of the applicant's lot and the adjacent littoral lots. ()

- iii. Proof of current ownership or control of littoral property or littoral rights. ()
- iv. A general vicinity map. ()
- v. Scaled air photos or maps showing the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, and the location and orientation of the proposed encroachment in the lake. ()
- vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface. ()
- vii. Names and current mailing addresses of adjacent littoral landowners. ()
- ab.** Applications ~~for nonnavigational encroachments and commercial navigational encroachments~~ must be submitted or approved by the ~~riparian or~~ littoral owner or, if the encroachment will lie over or upon private lands between the natural or ordinary high water mark and the artificial high water mark, the application must be submitted or approved by the owner of such lands. ~~Where~~ **When** the littoral owner is not the applicant, the application shall bear the owner's signature as approving the encroachment prior to filing. (9-13-90)()
- b.** ~~Applications for noncommercial navigational encroachments associated with private or public uplands must be signed by the riparian or littoral owner or his lessee, or by the owner or lessee of private lands between the natural or ordinary high water mark, and the artificial high water mark, seeking approval to make the encroachment. Owners of riparian or littoral lands or of the aforesaid private lands not making or joining in the application shall be considered adjacent riparian owners entitled to notice under Subsection 025.02, where the encroachment is on or over such riparian or littoral or other private lands.~~ (7-1-98)
- c.** If more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of a designated homeowner's or property management association. ()
- ed.** Applications for noncommercial encroachments intended to improve waterways for navigation, wildlife habitat and other recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make such improvements. Application fees are not required for these encroachments. (7-1-98)()
- de.** The following applications shall be accompanied by ~~a~~ the respective nonrefundable filing fees ~~of two hundred fifty dollars (\$250);~~ together with a deposit toward the cost of newspaper publication, which deposit shall be determined by the director at the time of filing: (9-13-90)()
- i. Nonnavigational encroachments require a fee of one thousand dollars (\$1,000); (9-13-90)()
- ii. Commercial navigational encroachments require a base fee of two thousand dollars (\$2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by Title 58, Chapter 13, Section 58-1307, Idaho Code; (7-1-98)()
- iii. Community navigational encroachments require a fee of two thousand dollars (\$2,000); and (7-1-98)()
- iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars (\$1,000). (9-13-90)()
- ef.** Applicants shall pay any balance due on publication costs before written approval will be issued. The Department shall refund any excess at or before final action on the application. (9-13-90)
- fg.** Application for a ~~permit for~~ single-family ~~and joint~~ or two-family docks not extending beyond the line of navigability or a nonnavigational encroachment for bank stabilization and erosion control or for fisheries and

wildlife habitat improvements shall be accompanied by a nonrefundable filing fee of two hundred fifty dollars (\$250). (7-1-98)(____)

gh. No publication cost is required for application for noncommercial navigational encroachment not extending beyond the line of navigability or for application for installation of buried or submerged water intake lines and utility lines. (9-13-90)

hi. Applications and plans shall be stamped with the date of filing. (7-1-98)

ij. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication ~~where~~ when required, shall not be accepted for filing. The ~~director~~ department shall ~~notify~~ send the applicant ~~of any deficiency~~ a written notice of incompleteness with a listing of the application's deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the department. If the given deadline is not met, the department will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply provided the required information is submitted at a later date, but will be required to pay another filing fee and publication fee, if applicable. (7-1-98)(____)

021. -- 024. (RESERVED).

025. PROCESSING OF APPLICATIONS FOR ~~NONCOMMERCIAL~~ SINGLE-FAMILY AND ~~JOINT~~ TWO-FAMILY NAVIGATIONAL ENCROACHMENTS WITHIN LINE OF NAVIGABILITY.

01. Noncommercial Single-Family and Two-Family Navigational Encroachments. Applications for single-family and two-family navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and shall not be denied except in the most unusual of circumstances. No newspaper publication, formal appearance by the applicant, or hearing is contemplated. (7-1-98)(____)

02. Adjacent Riparian Littoral Owners. If a proposed encroachment referred to in Subsection 025.01 may infringe upon the ~~riparian or~~ littoral rights lines of an adjacent riparian littoral owner, the ~~director~~ department shall require the applicant to secure the written consent of the adjacent riparian littoral owner. (7-1-98)(____)

03. Notification of Adjacent Riparian Littoral Owners. If the signature of the adjacent riparian littoral owner is not required, the Department shall provide a copy of such application to the riparian littoral owners immediately adjacent to the applicant's property. ~~Such adjacent riparian owner shall have twenty-one (21) days from the date of the mailing to provide comments to the Department. If the applicant owns one (1) or more adjacent lots, the department shall notify the owner of the next adjacent lot. This notice notification will be sent by regular mail to the adjacent riparian littoral owners' usual place of address, which, if not known, shall be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent riparian littoral owners' signatures as concurring with the application in lieu of the twenty-one (21) day notice period~~ department's notification. (3-19-99)(____)

04. Written Objections. (____)

a. If an adjacent riparian littoral owner files written objections to the application with the ~~director~~ department within ~~twenty-one~~ ten (21) days from the date of service or receipt of notice of the completed application, the ~~director~~ department shall fix a time and a place for a hearing. In computing the time to object, the day of service or receipt of notice of the application shall not be counted. Objections must be received within the ~~twenty-one~~ ten (21) day period by mail or hand delivery in the local department office ~~of the Department in Coeur d'Alene or the director's office in Boise~~. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object shall run until the end of the first business day thereafter. (7-1-98)(____)

b. The applicant and any objectors may agree to changes in the permit that result in the objections being withdrawn. Department employees may facilitate any such agreement. Participation by department personnel in this informal mediation shall not constitute a conflict of interest for participation in the hearing process. A

withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain: ()

- i. Signatures of the applicant and the objecting party: ()
- ii. A description of the changes or clarifications to the permit that are acceptable to the applicant, the objecting party, and the department. ()

05. Unusual Circumstances. Even though no objection is filed by an adjacent riparian littoral owner to a noncommercial navigational encroachment, if the director deems it advisable because of the existence of unusual circumstances, he may require a hearing. (7-1-98)()

06. Hearings. Hearings fixed by the director following an objection pursuant to Subsection 025.04 or the Director's own determination pursuant to Subsection 025.05 shall be fixed as to time and place, but no later than sixty (60) days from date of acceptance for filing of the application. At the hearing the applicant and any adjacent riparian owner filing timely objections may appear personally or through an authorized representative and present evidence. ~~Said hearing shall be in the nature of a formal contested case hearing as defined herein by Subsection 010.07. The department may also appear and present evidence at the hearing.~~ In such hearings the ~~Department~~ hearing coordinator shall act as ~~the~~ a fact finder and not a party. The Director, at his discretion, shall designate a Department representative to sit as the hearing ~~officer~~ coordinator. Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. (3-19-99)()

07. Decision Following a Hearing. The director shall, within forty-five (45) days after close of the hearing provided for in Subsections 025.04 or 025.05 render a final decision and give notice thereof to the parties appearing before him either personally or by certified or registered mail. The final decision shall be in writing. (7-1-98)()

08. Reconsideration. ~~The applicant, if dissatisfied with the Director's decision, or other aggrieved party who participated at a hearing, shall have twenty (20) days from the date of the Director's decision to request reconsideration thereof. If reconsideration is requested, the director shall set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place the person requesting reconsideration and the applicant may appear in person or through an authorized representative and present briefing and oral argument. Upon conclusion of reconsideration, the director shall by personal service or by registered or certified mail notify the applicant of his decision.~~ **Disposition Without Hearing.** If a hearing is not held under Subsection 025.04 or Subsection 025.05, then the department shall act upon a complete application filed under Subsection 025.01 as expeditiously as possible but no later than sixty (60) days from acceptance of the application. Failure to act within this sixty (60) day timeframe shall constitute approval of the application. Applications determined to be incomplete under Subsection 020.07 are not subject to the sixty (60) day timeframe until the information requested by the department and required by the rules has been submitted. (3-19-99)()

09. Judicial Review. Any applicant aggrieved by the Director's final decision ~~on reconsideration,~~ or ~~other an~~ aggrieved party appearing at a ~~reconsideration~~ hearing, shall have a right to have the proceedings and final decision reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final decision. An adjacent riparian littoral owner shall be required to deposit an appeal bond with the court, ~~in an amount to be determined by the court but not less than~~ five hundred dollars (\$500) ~~appeal bond~~ insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the director. The applicant need post no bond with the court to prosecute an appeal. (3-19-99)()

10. Disposition Without Hearing. ~~In the event no objection to the proposed encroachment and request for hearing is filed with the director by an adjacent riparian owner under Subsection 025.04, or hearing ordered by the director under Subsection 025.05, then the director shall act upon an application filed under Subsection 025.01 as expeditiously as possible but no later than sixty (60) days from acceptance of the application and failure to act within such time shall constitute approval of the application.~~ (7-1-98)

026. -- 029. (RESERVED).

030. PROCESSING OF APPLICATIONS FOR ALL OTHER TYPES OF ENCROACHMENTS.

01. **Nonnavigational, Community, and Commercial Navigational Encroachments.** Upon receipt of ~~a~~ complete application for a nonnavigational encroachment, a community dock, or a commercial navigational encroachment, or for a navigational encroachment extending beyond the line of navigability, the ~~director~~ department shall, within ten (10) days of ~~acceptance for filing of the~~ receiving a complete application, ~~cause notice of the application to be published~~ publish a notice of application once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the encroachment is proposed; ~~however, that if~~ If, however, the director orders a hearing on the application ~~in the first instance~~ within the time for publication of the above notice, the ~~director~~ department shall dispense with publication of the notice of the application and shall proceed instead to publish a notice of the public hearing as provided in Subsection ~~025-06~~ 030.05. Applications for installation of buried or submerged water intake lines and utility lines shall be exempt from the newspaper publication process ~~unless it is of a size that it requires an easement from the state of Idaho.~~ (7-1-98)()

02. **Encroachments Not in Aid of Navigation.** Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is ~~no~~ other feasible alternative with less impact on public trust values. (7-1-98)()

03. **~~Agency Comments~~ Notifications.** Upon request or when the ~~director~~ department deems it appropriate, the ~~director~~ department may furnish copies of the application and plans to federal, state and local agencies and to adjacent ~~riparian~~ littoral owners, requesting comment on the likely effect of the proposed encroachment upon adjacent ~~riparian~~ littoral property and ~~lake~~ public trust values ~~factors of such as~~ navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, ~~or~~ water quality, etc. ~~Within thirty (30) days following receipt of a copy of the application and plans, such agencies shall notify the director of their opinions and recommendation, if any, for alternate plans determined by such agencies to be economically feasible to accomplish the purpose of the proposed encroachment without adversely affecting unreasonably adjacent riparian property or other lake value factors and public trust values.~~ (7-1-98)()

04. **Written Comments or Objections.** ~~Any resident of the state of Idaho, or a nonresident owner or lessee of real property adjacent to the lake in question, or any state, federal or local agency may,~~ Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner or lessee, or any resident of the state of Idaho may do one (1) of the following: ()

a. Notify the department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or ()

b. File with the ~~director~~ Department written objections to the proposed encroachment and a request for a public hearing on the application. The hearing must be specifically requested in writing. Any person or agency requesting a hearing on the application shall deposit and pay to the ~~director~~ department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05. (3-19-99)()

05. **Hearing.** Notice of the time and place of public hearing on the application shall be published by the director once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is proposed, which hearing shall be held within ninety (90) days from the date the application is accepted for filing. (7-1-98)

06. **Hearing Participants.** Any person may appear at the public hearing and present oral testimony. Written comments shall also be received by the Department. (7-1-98)

07. **Decision After Hearing.** The director shall render a final decision within ~~forty five~~ thirty (45/30) days after close of the public hearing. A copy of his final decision shall be mailed to the applicant and to each person or agency appearing at the hearing and giving oral or written testimony in support of or in opposition to the proposed encroachment. (7-1-98)()

08. Decision Where No Hearing. ()

a. In the event no objection to the proposed encroachment is filed with the ~~director~~ department and no public hearing is requested under Subsection 030.04, or ordered by the director under Subsection 030.01, the ~~director~~ department, based upon ~~his~~ its investigation and considering the economics of the navigational necessity, justification or benefit, public or private, of such proposed encroachment as well as its detrimental effects, if any, upon adjacent real property, ~~lake value factors~~ and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, ~~or~~ water quality, etc. shall prepare and forward to the applicant ~~either personally or by registered or certified mail, his~~ its decision. (7-1-98)()

09b. Reconsideration. The applicant, if dissatisfied with the director's decision, ~~or other aggrieved persons who appeared at the public hearing and gave oral or written testimony,~~ shall have twenty (20) days from the date of the director's decision to request reconsideration thereof. If reconsideration is required, the director shall set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place ~~the person requesting reconsideration and~~ the applicant may appear in person or through an authorized representative and present briefing and oral argument. Upon conclusion of reconsideration, the director shall by personal service or by registered or certified mail notify the applicant of his final decision. (3-19-99)()

109. Judicial Review. Any applicant aggrieved by the director's final decision, ~~on reconsideration or other an~~ aggrieved party ~~appearing who appeared~~ at a ~~reconsideration~~ hearing, shall have the right to have the proceedings and final decision of the director reviewed by the district court in the county in which the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final decision. The applicant need post no bond with the court to prosecute an appeal. Any other aggrieved party shall be required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars (\$500), ~~appeal bond~~ insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the director. (7-1-98)()

110. Factors in Decision. In recognition of continuing private property ownership of lands lying between the natural or ordinary high water mark and the artificial high water mark, if present, the ~~director~~ department shall consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the natural or ordinary high water mark. If no objections have been filed to the application and no public hearing has been requested or ordered by the director, or, if upon reconsideration of a decision disallowing a permit, or following a public hearing, the ~~director~~ department determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effects, ~~he~~ the permit shall be granted ~~the permit.~~ (9-13-90)()

031. -- 0394. (RESERVED).

035. TEMPORARY PERMITS.

01. Applicability. Temporary permits are used for construction, temporary activities related to permitted encroachments, or other activities approved by the department. ()

02. Permit Term. These permits are generally issued for less than one (1) year, but longer terms may be approved by the department and permits may be extended with department approval. ()

03. Bonding. The department may require bonds for temporary permits. ()

04. Fee. The board shall set fees for temporary permits, but the fees shall be no greater than the amounts listed for the respective permit types in Subsection 020.07. Fee information is available on the Internet at www.idl.idaho.gov. ()

05. Processing. These permits may be advertised if the department deems it appropriate, with the applicant paying the advertising fee as per Subsection 020.07. ()

~~040. PERMIT REVOCATION OR WITHDRAWAL.~~

~~01. **Administrative Action on Revocation of Lake Encroachment Permit.** The Department may institute an administrative action to revoke a lake encroachment permit for violation of the conditions of a permit, or for any other reason authorized by law. All such proceedings shall be conducted as contested case hearings subject to the provisions of Idaho Code, Title 67, Chapter 52 and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners."~~ (7-1-98)

~~02. **Notice of Noncompliance/Proposed Permit Revocation.** When the Department determines that cause exists for revocation of a lake encroachment permit, it shall provide the permittee with a "Notice of Noncompliance/Proposed Permit Revocation," which shall consist of a short and plain statement of the reason for the proposed revocation, including any pertinent legal authority.~~ (7-1-98)

~~03. **Request for Contested Case Hearing.** If the permittee disputes the Department's basis for revocation, the permittee shall, within thirty (30) days of receipt of the notice of noncompliance, request a contested case hearing in which to request a contested case hearing, the Department may proceed to revoke the permit administratively. If the permittee requests a contested case hearing, the Department shall proceed to schedule and conduct the hearing in accordance with these rules, Idaho Code, Title 67, Chapter 52 and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners."~~ (7-1-98)

~~04. **Recommended Findings of Fact and Conclusions of Law.** A hearing officer appointed to conduct the revocation hearing shall prepare recommended findings of fact and conclusions of law and forward them to the Director for final adoption or rejection.~~ (7-1-98)

~~0436. -- 049. (RESERVED).~~

050. RECORDATION.

Recordation of an issued permit in the records of the county in which an encroachment is located shall be a condition of issuance of a permit and proof of recordation shall be furnished to the Department by the permittee before a permit becomes valid. Such recordation shall be at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title, or interest on the permittee other than validation of said permit. (~~Idaho Code, Section 58-1306(e)~~) (9-13-90)(____)

~~051. -- 054. (RESERVED).~~

055. LEASES AND EASEMENTS.

01. Lease or Easement Required. As a condition of the encroachment permit, the ~~director~~ department may require a submerged land lease or easement for use of any part of the state-owned bed of the lake where such lease or easement is required in accordance with "Rules Governing Leases on State-owned Submerged Lands and Formerly Submerged Lands," IDAPA 20.03.17, or "Rules For Easements On State-owned Submerged Lands And Formerly Submerged Lands," IDAPA 20.03.09. A lease or easement may be required for uses including, but not limited to, commercial uses. Construction of an encroachment authorized by permit without first obtaining the required lease or easement shall constitute a trespass upon state-owned public trust lands. This rule is intended to grant the state recompense for the use of the state-owned bed of a navigable lake where reasonable and it is not intended that the ~~director~~ department withhold or refuse to grant such lease or easement if in all other respects the proposed encroachment would be permitted. (3-19-99)(____)

02. Seawalls, Breakwaters, Quays. Seawalls, breakwaters, and quays on or over state-owned beds, designed primarily to create additional land surface, will be authorized, if at all, by an encroachment permit and submerged land lease or easement, upon determination by the ~~director~~ department to be an appropriate use of submerged lands. (9-13-90)(____)

~~056. -- 059. (RESERVED).~~

060. INSTALLATION.

01. Installation Only After Permit Issued. Installation or on site construction of an encroachment may commence only when the permit is issued or when the ~~director~~ department notifies the applicant in writing that installation may be commenced or when the ~~director~~ department has failed to act in accordance with Subsection 025.408. (3-19-99)()

02. Construction. ~~Where feasible, all docks, piers or similar structures shall be constructed so as to protrude as nearly as possible at right angles to the general shoreline and shall be constructed so as not to interfere with docks, piers, or similar structures presently existing or likely to be installed to serve adjacent properties.~~ (9-13-90)

03. Water Access. ~~Docks, piers or other works may extend to a length that will provide access to a water depth that will afford sufficient draft for water craft customarily in use on the particular body of water during the normal low water period, except that no structure may extend beyond the normal accepted line of navigability established through use unless additional length is authorized by permit or order of the director. If a normally accepted line of navigability has not been established through use, the director may from time to time as he deems necessary, after public hearing, designate a line of navigability for the purpose of effective administration of these rules.~~ (9-13-90)

04. Excavated or Dredged Channel. ~~An excavated or dredged channel or basin to provide access to navigable waters may be authorized only when the applicant can show that it will provide a clear environmental, economic, or social benefit to the people of the state and will not result in any appreciable environmental degradation. A channel or basin shall not be approved if it appears that the cumulative effect of the proposed channel or basin plus all reasonably foreseeable future basins or channels in the same navigable lake would be adverse to fisheries or water quality. Whenever practical, such channels or basins shall be located to serve more than one (1) riparian owner; provided, however, that no basin or channel will be approved that will provide access for watercraft to nonriparian owners.~~ (3-19-99)

05. Presumed Adverse Effect. ~~It will be presumed, subject to rebuttal, that commercial navigational encroachments, community docks or nonnavigational encroachments will have an adverse effect upon adjacent riparian property if located closer than twenty five (25) feet to adjacent riparian property lines and that single family and two family navigational encroachments will have a like adverse effect upon adjacent riparian property if located closer than ten (10) feet from adjacent riparian property lines. Consent of the adjacent riparian owner or owners will automatically rebut the presumption.~~ (3-19-99)

06. Upland Vehicle Parking. ~~Commercial navigational encroachments shall provide upland vehicle parking equivalent to one (1) parking space per two (2) watercraft moorages. Local city or county ordinances governing parking requirements for marinas will apply if such have been enacted.~~ (7-1-98)

07. Weather Conditions. ~~Encroachments shall be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers and similar structures shall be adequately secured to pilings or anchors to prevent displacement due to ice, wind and waves.~~ (9-13-90)

08. Markers. ~~If the director determines that an encroachment is not of sufficient size to be readily seen or which poses a hazard to navigation, he shall specify in the permit approved markers be used to identify clearly the extent and size of the encroachment.~~ (7-1-98)

092. Removal of Construction Waste. ()

a. Pilings, anchors, old docks, and other structures, ~~or material~~ or waste at the site of the installation or reinstallation and not used as a part of the encroachment shall be removed from the water and lakebed at the time of the installation or reinstallation to a point above normal flood water levels; provided, however, that this shall not be construed to prevent the use of trash booms for the temporary control of floatable piling ends and other floatable materials in a securely maintained trash boom, but approval for a trash boom shall be required as part of a permit. (9-13-90)()

b. Demolition of encroachments shall be done in a manner that does not unnecessarily damage the lakebed or shoreline. Demolition work must comply with water quality standards administered by the Department of

Environmental Quality. ()

~~10. **Seawalls or Breakwaters.** Seawalls or breakwaters built upon the lake for use in aid of navigation will not be authorized below the level of normal low water without an extraordinary showing of need, provided, however that this shall not apply to floating breakwaters secured by piling and used to protect private property from recurring wind, wave or ice damage, or used to control traffic in busy areas of lakes. (9-13-90)~~

~~103. **Compliance with Permit.** All work shall be done in accordance with these rules, and the application submitted, and is subject to any condition specified in the permit. (7-1-98)~~

~~12. **Overhead Clearance.** Overhead clearance between the natural or ordinary high water mark or the artificial high water mark, if there be one, and the structure or wires must be sufficient to pass the largest vessel which may reasonably be anticipated to use the subject waters in the vicinity of the encroachment. In no case will the clearance be required to exceed twenty (20) feet unless the director shall determine after hearing that it is in the overall public interest that the clearance be in excess of twenty (20) feet. Irrespective of height above the water, approval of structures or wires presenting a hazard for boating or other water related activities may be conditioned upon adequate safety marking to show clearance and otherwise to warn the public of the hazard. The director shall specify in the permit the amount of overhead clearance and markings required. (9-13-90)~~

~~13. **Overhead Clearance; Other Requirements.** When the permit provides for overhead clearance or safety markings under Subsection 060.08, the director shall consider the applicable requirements of the U.S. Coast Guard, the Idaho Transportation Department, the Idaho Public Utilities Commission and any other applicable federal, state or local regulations. (3-19-99)~~

~~104. **Sunset Clause.** All activities authorized within the scope of the encroachment permit must be completed within three (3) years of issuance date. If the activities are not completed within three (3) years, the permit shall automatically expire unless it was previously revoked or otherwise extended by the department. (7-1-98)()~~

~~061. -- 0694. (RESERVED).~~

~~065. **ASSIGNMENTS.**~~

~~01. **Assignment of Encroachment Permit.** Encroachment permits may be assigned upon approval of the department provided that the encroachment conforms with the approved permit. The assignor and assignee must complete a department assignment form and forward it to the appropriate area office. ()~~

~~02. **Assignment Fee.** The assignment fee shall be one hundred fifty dollars (\$150). The fee shall be paid at the time the assignment is submitted to the department. ()~~

~~03. **Approval Required for Assignment.** An assignment is not valid until it has been approved by the department. ()~~

~~04. **Assignment With New Permit.** Encroachments not in compliance with the approved permit may be assigned only if: ()~~

~~a. **An application for a new permit to correct the noncompliance is submitted at the same time.** ()~~

~~b. **The assignee submits written consent to bring the encroachment into compliance.** ()~~

~~066. -- 069. (RESERVED).~~

~~070. MISCELLANEOUS.~~

~~01. **Water Resources Permit.** A permit to alter a navigable stream issued by the Department of Water Resources pursuant to Title 42, Chapter 38, Idaho Code, may, in appropriate circumstances, contain language stating the approval of the Department of Lands to occupy the state-owned bed of the navigable stream. (9-13-90)~~

02. Dredge and Placer Mining. Department authorization is required for dredge and placer mining in the lands, lakes and rivers within the state, whether or not the state owns the beds, pursuant to Title 47, Chapter 13, Idaho Code. (9-13-90)

03. Mineral Leases. Littoral rights do not include any right to remove bed materials from state-owned lakebeds. Applications to lease minerals, oil, gas and hydrocarbons, and geothermal resources within the state-owned beds of navigable lakes will be processed by the department pursuant to Title 47, Chapters 7, 8 and 16, Idaho Code, and rules promulgated thereunder. (~~9-13-90~~)()

04. Other Laws and Rules. The permittee shall comply with all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources. ()

071. -- 079. (RESERVED).

080. VIOLATIONS - PENALTIES.

01. Cease and Desist Order. When the department determines that a violation of these rules is occurring due to the ongoing construction of an unauthorized encroachment or an unauthorized modification of a permitted encroachment, it may provide the landowner, contractor, or permittee with a written cease and desist order that shall consist of a short and plain statement of what the violation is, the pertinent legal authority, and how the violation may be rectified. This order will be served by personal service or certified mail. The cease and desist order shall be used to maintain the status quo pending formal proceedings by the department to rectify the violation.()

02. Notice of Noncompliance/Proposed Permit Revocation. When the department determines that these rules have been violated, a cause exists for revocation of a lake encroachment permit, or both of these have occurred, it shall provide the permittee with a notice of noncompliance/proposed permit revocation that shall consist of a short and plain statement of the violation including any pertinent legal authority. This notice shall also inform the permittee of what steps are needed to either bring the encroachment into compliance, if possible, or avoid revocation, or both. ()

03. Noncompliance Resolution. The department will attempt to resolve all noncompliance issues through conference with the permittee or other involved party. Any period set by the parties for correction of a violation shall be binding. If the department is unsuccessful in resolving the violations, then the department may pursue other remedies under Section 080 of these rules. ()

04. Violations. The following acts or omissions shall subject a person to a civil penalty *of not less than one hundred fifty dollars (\$150) nor more than two thousand five hundred dollars (\$2,500) as allowed by Title 58, Chapter 13, Section 58-1308, Idaho Code:* (~~9-13-90~~)()

a. A violation of the provisions of ~~Section 58-1301, et seq.~~ Title 58, Chapter 13, Idaho Code, or of the rules and general orders adopted thereunder and applicable to navigable lakes; (~~9-13-90~~)()

b. A violation of any special order of the director applicable to a navigable lake; or (9-13-90)

c. Refusal to cease and desist from any violation in regards to a navigable lake after having ~~been notified to do so in writing by the director~~ received a written cease and desist order from the department by personal service or certified mail, within the time provided in the notice, or within thirty (30) days of service of such notice if no time is provided. (~~9-13-90~~)()

d. Willfully and knowingly falsifying any records, plans, information, or other data required by these rules. ()

e. Violating the terms of an encroachment permit. ()

025. Injunctions, Damages. The Board expressly reserves the right, through the director, to seek injunctive relief under Title 58, Chapter 13, Section 58-1308, Idaho Code and mitigation of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties provided for in Subsection 080.04 of

these rules.

(7-1-93)()

06. Mitigation, Restoration. The board expressly reserves the right, through the director, to require mitigation and restoration of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties and injunctive relief provided for in Subsections 080.04 and 080.05 of these rules. The department may consult with other state agencies to determine the appropriate type and amount of mitigation and restoration required.

()

07. Revocation of Lake Encroachment Permits.

()

a. The department may institute an administrative action to revoke a lake encroachment permit for violation of the conditions of a permit, or for any other reason authorized by law. All such proceedings shall be conducted as contested case hearings subject to the provisions of Title 67, Chapter 52, Idaho Code, and IDAPA 20.01.01, "Rules of Practice and Procedure before the State Board of Land Commissioners."

()

b. A hearing officer appointed to conduct the revocation hearing shall prepare recommended findings of fact and conclusions of law and forward them to the director for final adoption or rejection.

()

c. An aggrieved party who appeared and testified at a hearing shall have the right to have the proceedings and final decision of the director reviewed by the district court of the county in which the violation or revocation occurred by filing a notice of appeal within twenty-eight (28) days from the date of the final decision.

()

IDAPA 20 - DEPARTMENT OF LANDS

20.03.17 - RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS AND FORMERLY SUBMERGED LANDS

DOCKET NO. 20-0317-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Idaho Code 67-5221(1) and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners" (Board), Sections 830 through 835, notice is hereby given that this agency has initiated proposed rulemaking procedures. This proposed rulemaking is authorized pursuant to Section 58-104(6), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking, and changes to 20.03.04, will be held on:

October 10th, 2007 -- 8 am to 5 pm
3780 Industrial Avenue South
Coeur d'Alene, Idaho

The purpose of the hearing is to gather public comments on the proposed rules. 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 Idaho Department of Lands (IDL) is initiating this rulemaking to provide continuity with IDAPA 20.03.04 and to address significant issues associated with development pressure, escalating resource demands, increased property values, and the economics of marina operation. The issues to be addressed by this rulemaking include changing definitions to match those of IDAPA 20.03.04, "Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho," and allowing commercial marinas to have some private moorage without permanently encumbering public trust lands and with sufficient protections for the parties involved. The rules will also specify what types of rental rates should be used. Yearly reporting requirements are added to assist the department in determining current market rental rates and to ensure our lessees are maintaining proper insurance coverage. These rules will also provide enforcement remedies in addition to lease cancellation. This rulemaking will be conducted in conjunction with the IDAPA 20.03.04 rulemaking.

FEE SUMMARY: The following is a specific description of the fees: Lease application and renewal fees are \$150; lease assignment fees are \$150. Lease application and assignment fees will be required in addition to similar fees collected under IDAPA 20.03.04. Rental rates will be set by the board. Lease violations may be remedied with payment of a civil penalty to be collected as additional rent.

FISCAL IMPACT: This is a general fund program. The department anticipates a positive fiscal impact of approximately \$4,000 on the state general fund due to increased application and assignment fees.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 6, 2007 Idaho Administrative Bulletin, Vol. 07-6 page 77. Negotiations were conducted over six (6) meetings in June and July, 2007.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Eric Wilson, (208) 334-0261 or ewilson@idl.idaho.gov. More information is also at <http://www.idl.idaho.gov/adminrule/rulemaking.html>

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 21st day of August, 2007.

Eric Wilson, Navigable Waters/Minerals Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103, Boise, ID 83702

Phone (208) 334-0261/ Fax (208) 334-3698
ewilson@idl.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0317-0701

000. AUTHORITY.

~~These rules are promulgated pursuant to, and shall be construed in a manner consistent with, the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Idaho Code, Chapters 1, 3, and 6, Title 58, and the Public Trust Doctrine. This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Idaho Code, Sections 58-104(6), 58-104(9), and 58-105; Title 58, Chapter 3, Idaho Code, Sections 58-304 through 58-312; Title 58, Chapter 6, Idaho Code; Title 58, Chapter 12; and Title 67, Chapter 52, Idaho Code. (7-1-97)()~~

001. TITLE AND SCOPE.

01. Application of Rules. ~~These rules set forth procedures concerning the issuance of leases on state-owned submerged lands.~~ **Title.** These rules shall be cited as IDAPA 20.03.17, "Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands." (7-1-97)()

02. Additional Application of Rules. Scope. These rules govern the issuance of leases on state-owned submerged lands. ()

a. These rules also apply to state-owned islands raised from submerged lands, or filled submerged lands, or other formerly submerged lands that are no longer covered by water at any time during an ordinary year. (7-1-97)()

~~**03b. State's Rights.** While the State asserts the right to issue leases for all encroachments, navigational or non-navigational, upon, in or above the beds or waters of navigable lakes and rivers, nothing in these rules shall be construed to vest in the state of Idaho any property, right or claim of such right to any private lands lying above the natural or ordinary high water mark of any navigable lake or river. (7-1-97)()~~

002. WRITTEN INTERPRETATIONS.

~~There are no written interpretations of these rules. The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and informal opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General opinions, and other written interpretations, if applicable, are available for public inspection and copying at the director's office of the Idaho Department of Lands, Boise, Idaho, or are available on the Internet at www.idl.idaho.gov. (7-1-97)()~~

003. ADMINISTRATIVE APPEALS.

~~This chapter does not provide for appeal of the administrative requirements for agencies. Any person aggrieved by any final decision or order of the board shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners." (7-1-97)()~~

004. INCORPORATION BY REFERENCE.

~~There are no documents that have been incorporated by reference into this rule. ()~~

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

~~The principal place of business of the Idaho Department of Lands is in Boise, Idaho and it is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone number of the office is (208) 334-0200. ()~~

006. PUBLIC RECORDS ACT COMPLIANCE.

~~The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()~~

~~007. -- 009. (RESERVED).~~

010. DEFINITIONS.

01. **Artificial High Water Mark.** The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line. (*Section 58-1302(d), Idaho Code*). (7-1-97)(____)

02. **Board.** The Idaho State Board of Land Commissioners or *such representative as may be designated by the Board its designee*. (7-1-97)(____)

03. **Commercial Navigational Encroachment or Commercial Marina.** A navigational encroachment *for the use of which patrons pay a fee whose primary purpose is to provide moorage for rental or for free to the general public*. (7-1-97)(____)

04. **Community Dock or Multiple Family Dock.** ~~SA structures that provides private moorage facilities for more than two (2) adjacent riparian littoral property owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to, homeowners' associations. A community dock shall be considered a commercial navigational aid. No public access is required for a community dock.~~ (7-1-97)(____)

05. **Department.** The Idaho Department of Lands or its designee. (7-1-97)(____)

06. **Director.** The *director* head of the Idaho Department of Lands or *such representative as may be designated by the director his designee*. (7-1-97)(____)

07. **Dock Surface Area.** Includes docks, slips, piers, and ramps and is calculated in square feet. Dock surface area does not include ~~piles pilings~~, submerged anchors, or undecked breakwaters. (7-1-97)(____)

08. **Encroachments in Aid of Navigation.** Includes docks, piers, ~~floats~~ jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, ~~log storage, public boardwalks~~ and other *such aids to navigability* facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake, river or stream. The term "encroachment(s) in aid of navigation" may be used interchangeably herein with the term "navigational encroachment(s)." (7-1-97)(____)

09. **Encroachments Not in Aid of Navigation.** Includes all other encroachments on, in, or above the beds or waters of a navigable lake, river or stream, ~~such as fills into waterways including landfills, bridges, floating restaurants, bars, stores utility and power lines,~~ or other structures not constructed primarily for use in aid of navigation. It shall also include float homes ~~moored permanently or in any one place for a substantial period of time and used as either a permanent or temporary place of abode or residence and floating toys~~. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "non-navigational encroachment(s)." (7-1-97)(____)

10. **Formerly Submerged Lands.** The beds of navigable lakes, rivers, and streams that have either been filled or subsequently became uplands because of human activities including construction of dikes, berms, and seawalls. Also included are islands that have been created on submerged lands through natural processes or human activities since statehood, July 3, 1890. (7-1-97)

11. **Market Value.** ~~For purposes of these rules only, the per acre market value of the state owned submerged lands shall be the same as the per acre value of the adjacent uplands for which the submerged or formerly submerged land shall serve as a substitute. The per acre value of the adjacent upland may be the county assessed value or may be appraised, as determined by the Director. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.~~ (7-1-97)(____)

12. **Natural or Ordinary High Water Mark.** The line that the water impresses upon the soil by covering it for a sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes (*Section 58-104 and 58-1302(e), Idaho Code*). If, however, the soil, configuration of the surface, or vegetation has been altered by man's activity, the ordinary high water mark shall be located where it would have been

if the alteration had not occurred. (7-1-97)()

13. Person. ~~An individual,~~ partnership, association, ~~or~~ corporation, natural person, or entity qualified to do business in the state of Idaho, and any federal, state, ~~county~~ tribal, or ~~local~~ municipal unit of government. (7-1-97)()

14. Riparian or Littoral Rights. ~~Only~~ The rights of owners or lessees of land adjacent to navigable lakes, rivers or streams to maintain their adjacency to the lake, river, or stream and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters ~~or to remove state-owned bed materials.~~ (Section 58-1302(f), Idaho Code). (7-1-97)()

15. Single-Family Dock. A structure ~~that provides~~ providing noncommercial moorage ~~facilities to that~~ that serves one (1) ~~riparian/littoral~~ waterfront owner whose waterfront footage is no less than twenty-five (25) feet. (7-1-97)()

16. Submerged Lands. The state-owned beds of navigable lakes, rivers, and streams ~~lying~~ below the natural or ordinary high water marks. (7-1-97)()

17. Uplands. The land bordering on navigable lakes, rivers, and streams. (7-1-97)()

011. ABBREVIATIONS.

01. IDAPA. Idaho Administrative Procedure Act. ()

012. -- 019. (RESERVED).

020. APPLICABILITY.

Leases shall be required for all encroachments on, in, or over state-owned submerged land except: (7-1-97)

01. Single ~~or Multiple~~ Family or Two-Family Docks. ~~Single or multiple-family or two-family~~ docks that were constructed on or before July 1, 1993, that occupying less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (7-1-97)()

02. Single-Family Docks. Single-family docks that were constructed after July 1, 1993, that occupying less than seven hundred (700) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (7-1-97)()

03. Multiple Two-Family Docks. ~~Multiple~~ Two-family docks that were constructed after July 1, 1993, that occupying less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (7-1-97)()

04. Encroachments Free to the Public. Encroachments in aid of navigation for which the complete use is offered free to the public. (7-1-97)

05. Temporary Permits or Easements. Uses or encroachments that are customarily authorized by temporary permits or easements, such as roads, railroads, overhead utility lines, submerged cables, and pipelines. (See Information on easements can be found in IDAPA 20.03.09, "Easements on State-Owned Submerged Lands and Formerly Submerged Lands.") (7-1-97)()

021. -- 024. (RESERVED).

025. POLICY.

01. Policy of the State of Idaho. It is the policy of the state of Idaho to regulate and control the use and disposition of lands in the beds of navigable lakes, rivers and streams to the natural or ordinary high water mark

thereof, so as to provide for their commercial, navigational, recreational or other public use; provided that the Board shall take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands. (~~Section 58-104, Idaho Code~~) (7-1-97)(____)

02. Director May Grant Leases. The director may grant leases for uses that are in the public interest and consistent with these rules. (7-1-97)

03. Requests or Inquiries Regarding Navigability. The State owns the beds of all lakes, rivers, and streams that ~~are~~ were navigable in fact at statehood. The Department will respond to requests or inquiries as to which lakes, rivers, and streams are deemed navigable in fact. Additional information about streams deemed navigable by the State of Idaho is available from the Department. (7-1-97)(____)

04. Stream Channel Alteration Permit or Encroachment Permit. Issuance of a lease shall be contingent upon the applicant obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources, pursuant to Title 42, Chapter 38, Idaho Code, or an encroachment permit if required by the Department pursuant to the Lake Protection Act, Title 58, Chapter 13, Idaho Code, and compliance with local planning and zoning regulations if applicable. (7-1-97)

05. Other Permits and Licenses. Issuance of a lease shall not relieve an applicant from acquiring other permits and licenses that are required by law. (7-1-97)

06. Submerged Lands Lease Required Upon Notification. All persons using submerged lands in a manner that requires a submerged land lease shall obtain such a lease from the director when notified to do so. (7-1-97)

07. Term of Lease, Renewal of Lease. Leases shall be issued for a term ~~not to exceed ten (10) years in accordance with Title 58, Chapter 3, Section 58-304, Idaho Code, and shall~~ may be renewed for additional ~~ten (10) year~~ periods to be determined by the department based upon satisfactory performance during the present term. Renewals shall be processed with a minimum of procedural requirements and shall not be denied except in the most unusual circumstances or noncompliance with the terms and conditions of the previous lease. Lease renewals shall be initiated by the ~~director~~ department. (7-1-97)(____)

08. Director's Authorization to Issue and Renew Leases. The director is authorized to issue and renew leases for the use of submerged lands in accordance with these rules. (7-1-97)

09. Rights Granted. The lease grants only such rights as are specified in the lease. The right to use the property for all other purposes that do not interfere with the rights authorized in the lease remains with the state. (7-1-97)

10. Rules Applicable to All Existing and Proposed Uses and Encroachments. These rules shall apply to all existing and proposed uses and encroachments, whether or not authorized by permit under the Lake Protection Act, Title 58, Chapter 13, Idaho Code, or the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code. These rules provide that a lease may be required in addition to existing permits. See Subsection 020.01 through 020.05 of these rules for information about exceptions to lease requirements. (7-1-97)(____)

11. Waiver of Lease Requirements. The director may, in his discretion, waive lease requirements for single-~~or multiple~~-family or two-family dock encroachments whose dock surface areas exceed square footages described in Subsections 020.01 through 020.03 of these rules when the additional dock surface area square footage is necessary to gain or maintain access to water of sufficient depth to sustain dock use for water craft customarily in use on that particular lake. (7-1-97)(____)

12. Private Slips at Commercial Marinas. (____)

a. This Subsection (025.12) does not apply to community docks. (____)

b. Private moorage at commercial marinas is allowed as long as the requirements of IDAPA 20.03.04, "Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho," Subsection

015.03 are met. ()

c. The sale, lease, or rental of private moorage is in no way an encumbrance on any underlying public trust land. All transactions related to private moorage are subject to the limitations of the associated submerged lands lease. ()

d. Acquisition of private moorage must be documented with a disclosure that the transaction does not convey public trust lands and only conveys the right to use the designated portion of the marina. ()

e. The department shall make no policy regarding the cost of private moorage and the resolution of disputes between the involved parties. ()

026. -- 029. (RESERVED).

030. LEASE APPLICATION, FEE, AND PROCEDURE.

01. ~~Fee Determined by Board.~~ The lease application fee shall be ~~determined by the Board~~ one hundred fifty dollars (\$150). (7-1-97)()

02. ~~Fee May Not Be Required. A lease application and fee may not be required if an encroachment permit application for a new or changed encroachment is filed simultaneously. In these cases, the encroachment permit application and fee will also serve as a lease application and fee.~~ (7-1-97)

032. ~~Fee Shall Be Required.~~ A lease application and nonrefundable fee shall be required for new and existing encroachments ~~unless application for a new encroachment permit is filed simultaneously.~~ A lease application fee shall be required for leases that are renewed upon expiration. (7-1-97)()

04. ~~Encroachment Permit Application Fees. Information on encroachment permit application fees may be found in IDAPA 20.03.04, "Rules for the Regulation of Beds, Waters and Airspace over Navigable Lakes in the State of Idaho."~~ (7-1-97)

053. ~~Application to Lease and Fee.~~ The lease application and fee shall be submitted with ~~a letter of request stating the purpose of the lease; a scale drawing of the proposed lease area with plans detailing all intended improvements, including reference to the nearest known property corner(s); the permit number of each existing applicable encroachment permit(s); and the required rent.~~ the information from Subsections 030.03.a. through 030.03.c., in sufficient detail for the department to determine an appropriate lease rate based on numbers of slips, square footage, or other permit information; (7-1-97)()

a. A letter of request stating the purpose of the lease. ()

b. A scale drawing of the proposed lease area with plans detailing all intended improvements, including reference to the nearest known property corner(s). An encroachment permit may satisfy this requirement. ()

c. The permit number of each existing applicable encroachment permit. ()

064. ~~Submittal of Application to Lease and Fee.~~ The lease application and fee ~~may be submitted to any office of the Department~~ shall be filed in the local office of the department, whose location is available on the Internet at www.idl.idaho.gov, or the director's office in Boise. (7-1-97)()

075. ~~Notification of Approval or Denial.~~ The applicant shall be notified in writing if the lease application is approved or denied. The applicant shall also be notified of any additional requirements. (7-1-97)()

086. ~~Request for Reconsideration.~~ Any applicant aggrieved with the director's determination of rent or denial of a lease application may request reconsideration by the Director. (7-1-97)

031. -- 034. (RESERVED).

035. RENTAL.

~~01. **Rental Rates Determined by the Board.** The rental rates policy for submerged land leases shall be set by the Board. This policy is available on the Internet at www.idl.idaho.gov. (7-1-97)()~~

01. Standardized Rental Rates. The board shall set standard submerged land lease rental rates for common uses such as marinas, community docks, floathomes, restaurants, and retail stores. These rates may use a percentage of market value or gross receipts as well as other methods determined appropriate by the board. ()

~~02. **Modification of Rent.** The director may temporarily reduce or waive annual lease rent for commercial submerged lands leases for a period not to exceed two (2) years upon showing by the lessee that irreversible financial harm will occur if the rent is not temporarily modified. **Nonstandard Rental Rates.** The board shall direct the department to use a percentage of market value or gross receipts, or other methods determined appropriate by the board, as the submerged lands lease rental rate for uses that are uncommon, especially for non-navigational encroachments. (7-1-97)()~~

036. YEARLY REPORTING.

01. Annual Report. Lessees shall provide an annual report to the department which shall include: ()

a. A schedule of moorage rental rates, including moorage sizes and types. ()

b. The number and size of any private and public moorage. ()

c. The number and size of any private and public float home slips. ()

d. Current proof of insurance that is required by the lease. ()

02. Failure to Report. Failure to provide the annual report information will be a violation of these rules. ()

~~0367. -- 039. (RESERVED).~~

040. LATE PAYMENT, EXTENSIONS OF PAYMENT.

01. Penalty for Late Payment of Rent. Rent not paid by the due date shall be considered late. A penalty, calculated from the day after which payment was due, shall be added to the rent. The penalty shall be determined by the Board for the first month or any portion thereof and one percent (1%) of the rent due, including penalty, per month thereafter. (7-1-97)

02. Extension in Time for Payment of Rent. An extension in time in which to submit payment of rent may be granted for commercial submerged lands leases only. Such extensions may not exceed two (2) successive years, ~~(Section 58-305, Idaho Code)~~ as required by Title 58, Chapter 3, Idaho Code, Section 58-305. (7-1-97)()

03. Request for Extension in Time for Payment of Rent. Lessees must request extensions on forms supplied by the lessor and pay an extension fee to be determined by the Board. The lessee must also provide a statement from his banker or accountant verifying that money is not available for the payment of rent. (7-1-97)

04. Interest Rate for Extension in Time for Payment of Rent. If an extension is granted, rent plus interest at a rate established by the Board will be due no later than October 1 of the rent year. Specifically, interest will be the average monthly rate for conventional mortgages as quoted in the Federal Reserve Statistical Report; the rate to be rounded downward to the nearest one quarter percent (1/4%) on the tenth of each month following the release of data. (7-1-97)

041. -- 044. (RESERVED).

045. APPRAISAL PROCEDURES.

Appraisals may be used to determine the market value of adjacent uplands for calculating submerged lease rental rates. (____)

01. Appraisal. An appraisal ~~normally~~ will either be performed by qualified department staff. ~~If desired by the applicant and agreed to by the director, the applicant may ask the Department for~~ or an independent contract appraisal. Any appraisal must be under the control of the Department. (7-1-97)(____)

02. Cost of Appraisal. ~~If the appraisal is performed by department staff or by an independent contract appraiser,~~ The appraisal costs shall be the actual cost for department personnel plus transportation, including per diem and administrative overhead, or the bid amount for the contract appraiser. An itemized statement of these costs shall be provided to the applicant. The cost of the appraisal shall be in addition to those costs outlined in ~~Subsections 035-01 and 035-02 of these rules~~ and shall be billed separately from the application fee and rent. (7-1-97)(____)

046. -- 049. (RESERVED).

050. LEASE MODIFICATION OR AMENDMENT.

01. Encroachment Amendment. A lease modification or amendment must first be permitted through an amendment to the lake encroachment permit or stream alteration permit, if needed. (7-1-97)(____)

02. Modification of Existing Lease. Modification or amendment of an existing lease will be processed in the same manner as a new application, but no fee will be required. Modification or amendment includes change of use, location, size or scope of the lease site, but does not include ordinary maintenance, repair or replacement of existing structures or facilities. (7-1-97)(____)

03. Modification of Interior Facilities. Changes in the interior arrangement of existing facilities that do not constitute a change of use and do not alter or enlarge the exterior dimensions, ~~shall may~~ not be deemed a modification under this rule. The department shall determine if a lease modification is needed due to proposed changes. ~~However,~~ The lessee must give written notice to the Department at least ten (10) days in advance of making such changes. The lessee shall also furnish one (1) set of as-built plans to the Department within thirty (30) days following completion of changes. (7-1-97)(____)

051. -- 054. (RESERVED).

055. ASSIGNMENTS, ASSIGNMENT FEE.

01. Assignment of Lease. Leases may be assigned upon approval of the director provided that the lease conforms with Subsection 025.02 and all other provisions of these rules. The assignor and assignee must complete the Department's standard assignment form and forward it to any department office. (7-1-97)

02. Assignment Fee. The assignment fee shall be ~~determined by the Board and shall be paid at the time the assignment is submitted to the Department~~ one hundred fifty dollars (\$150). (7-1-97)(____)

03. Permit ~~Transfer~~ Assignment. The encroachment permit/stream alteration permit pertinent to a lease must be ~~transferred~~ assigned to a purchaser simultaneously with a lease assignment. A lease assignment will not be approved unless the permit is ~~transferred~~ assigned. (7-1-97)(____)

04. Approval Required for Assignment. An assignment is not valid until it has been approved by the director. (7-1-97)

056. -- 059. (RESERVED).

060. CANCELLATION AND ADDITIONAL REMEDIES.

01. Cancellation of Lease for Violation of Terms. Any violation of the terms of the lease by the

lessee, including non-payment of rent or any violation by lessee of any rule now in force or hereafter adopted by the Board may subject the lease to cancellation. The lessee shall be provided written notification of any violation. The letter shall specify the violation, corrective action necessary, and specify a reasonable time to make the correction. If the corrective action is not taken within the specified reasonable period of time, the Department shall notify the lessee of cancellation of the lease; provided, however, that the notice shall be provided to lessee no later than thirty (30) days prior to the effective date of such cancellation. (7-1-97)

02. Reinstatement of Lease. A lease may be reinstated within ~~thirty~~ ninety (90) days after cancellation for non-payment by paying the rental, plus interest, and a reinstatement fee to be determined by the Board. (7-1-97)()

03. Cancellation of Lease for Use Other Than Intended Purpose. A lease not used for the purpose for which it was granted may be canceled. The Department shall notify the lessee in writing of any proposed cancellation. The lessee shall have thirty (30) days to reply in writing to the Department to show cause why the lease should not be cancelled. Within sixty (60) days, the Department shall notify the lessee in writing as to the Department's decision concerning cancellation. The lessee will have thirty (30) days to appeal an adverse decision to the director. (7-1-97)

04. Removal of Improvements Upon Cancellation. Upon cancellation, the director shall provide the lessee with a specific, but reasonable, amount of time, not to exceed six (6) months from the date of final notice, to remove any facilities and improvements. Failure to remove any facilities or structures within such time period established by the director shall be deemed a trespass on submerged or formerly submerged lands. (7-1-97)

05. Additional Remedies Available. In addition to termination of the lease for the material default of the lessee, the lease may provide for other remedies to non-monetary breach of the lease, including, but not limited to: ()

a. Civil penalties as determined by the board and to be collected as additional rent; ()

b. The reasonable costs of remedial action undertaken by the department as a result of the lessee's failure to perform a requirement of the lease. These costs will be collected as additional rent; and ()

c. Such other remedies as the board shall deem appropriate. ()

061. -- 064. (RESERVED).

065. BOND.

01. Bond Requirement Determined by Director. Bonds may be required for commercial ~~non-~~ navigational, community dock, and nonnavigational leases. The need for bond shall be at the discretion of the director who shall consider the potential for abandonment of the facility, harm to state-owned submerged land and water resources, the personal and real property of adjacent upland owners and the personal and real property owned by the encroachment owner that is appurtenant to and supportive of the encroachment. (7-1-97)()

02. Performance Bond. In the event a bond is necessary, the lessee shall submit a performance bond in favor of the state of Idaho and in a format acceptable to the director before a lease is issued. Acceptable bonds include surety, collateral, and letters of credit. The amount of bond shall be the estimated cost of restoration as established by the director in consultation with the lease applicant on a case by case basis. To determine restoration costs, the director may consider the potential for damage to land, to improvements, and the cost of structure removal. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

075. OTHER RULES AND LAWS ~~OF THE STATE.~~

The lessee shall comply with all applicable state, federal, and local rules and laws ~~of the state of Idaho~~ insofar as they affect the use of the lands described in the lease. (7-1-97)()

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 119 through 125.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David E. Brasuell, Administrator, at (208) 334-3513.

DATED this 30th day of August, 2007.

David E. Brasuell
Administrator
Division of Veterans Services
320 Collins Rd.
Boise, Idaho 83702
(208) 334-3513 phone
(208) 334-2627 fax

DOCKET NO. 21-0101-0701 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-8, August 1, 2007, pages 119 through 125.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 22 - BOARD OF MEDICINE

22.01.01 - RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY IN IDAHO

DOCKET NO. 22-0101-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-1806 (2) (4) and (11) and 54-1806A, 54-1812, 54-1813, 54-1814 and 54-1841, 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 October 17, 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 proposed changes amend existing language relating to the graduates of U.S., Canadian and international medical schools; clarify post-graduate medical training requirements; augment international medical school requirements; include definitions; require lawful presence in the U.S.; broaden the fee schedules and to update and clarify rules.

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

The fee schedule has been broadened, however, there will be no increase in fees. Authority for imposition of these fees is found in Sections 54-1806 (11), 54-1808 and 54-1813, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted, however, the Board received input and comments regarding the licensure of qualified well-trained graduates of international medical schools, particularly given the shortage of physicians, from legislators, international medical school graduates, physicians and the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 21, 2007.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140,
Boise, ID 83704
PO Box 83720, Boise, Idaho 83720-0058
Telephone: (208) 327-7000
Fax: (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0101-0701

000. LEGAL AUTHORITY.

Pursuant to Sections 54-1806(2), ~~54-1806(4)~~, 54-1806(11), ~~and Section~~ 54-1806A, 54-1812, 54-1813, 54-1814 and 54-1841, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the practice of Medicine in Idaho. ~~(3-30-01)~~()

(BREAK IN CONTINUITY OF SECTIONS)

005. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into ~~the~~ these rules. ~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

008. SEVERABILITY.

The sections and subsections of these rules are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. ()

~~008.~~—009. (RESERVED).

010. DEFINITIONS.

~~031.~~ **Acceptable School of Medicine.** A medical school or college of osteopathic medicine located within the United States or Canada and designated as an approved medical school by the Liaison Committee on Medical Education, or a school of osteopathy located within the United States and designated as an approved school of osteopathy by the American Osteopathic Association, or a medical school acceptable to the Board accredited by the Liaison Committee on Medical Education (LCME), Joint Committee of the Association of American Medical Colleges (AAMC) and the American Medical Association (AMA) or the American Osteopathic Association (AOA). A medical school or college of osteopathic medicine located within Canada accredited by the Liaison Committee on Medical Education (LCME) and by the Committee on Accreditation for Canadian Medical Schools, as sponsored by the Canadian Medical Association and Association of Canadian Medical Colleges or the American Osteopathic Association (AOA). ~~(7-1-93)~~()

02. **Acceptable International School of Medicine.** An international medical school located outside the United States or Canada which meets the standards for medical educational facilities set forth in Subsection 051.02, is accredited by the Educational Commission for Foreign Medical Graduates (ECFMG) and provides the scope and content of the education and coursework that are equivalent to acceptable schools of medicine located within the United States or Canada. ()

03. **Accreditation Council for Graduate Medical Education (ACGME).** A nationally recognized accrediting authority responsible for accreditation of post-Medical Doctor medical training programs within the United States. ()

054. **Applicant.** Any human person seeking a license to practice medicine from the Board. ~~(7-1-93)~~()

~~075.~~ **Board.** The Idaho State Board of Medicine. (7-1-93)

06. **Educational Commission for Foreign Medical Graduates (ECFMG).** A nationally recognized non-profit organization that certifies international medical graduates who seek to enter United States residency and

fellowship programs and conducts the Clinical Skills Assessment (CSA). ()

07. **Federation of State Medical Boards of the United States (FSMB).** A nationally recognized non-profit organization representing the seventy (70) medical boards of the United States and its territories. ()

08. **Liaison Committee on Medical Education (LCME).** An internationally recognized accrediting authority, sponsored by the Association of American Medical Colleges and the American Medical Association, for medical education programs leading to a Medical Doctor (MD) degree in United States and Canadian medical schools. ()

~~0409.~~ **License to Practice Medicine.** A license issued by the Board to practice medicine and surgery or a license to practice osteopathic medicine and surgery in Idaho. (3-30-06)

~~0210.~~ **Medical Practice Act.** Title 54, Chapter 18, Idaho Code. (3-30-06)

~~0611.~~ **Original Certificate or Document.** ~~Shall mean either~~ The original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board or a Board approved credential verification service. (~~3-30-06~~)()

011. ABBREVIATIONS.

01. **AAMC.** Association of American Medical Colleges. ()

02. **ACGME.** Accreditation Council for Graduate Medical Education. ()

03. **AMA.** American Medical Association. ()

04. **AOA.** American Osteopathic Association. ()

05. **ECFMG.** Educational Commission for Foreign Medical Graduates. ()

06. **FSMB.** Federation of State Medical Boards. ()

07. **LCME.** Liaison Committee on Medical Education. ()

08. **USMLE.** United States Medical Licensing Exam. ()

~~0142.~~ -- **049. (RESERVED).**

050. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

01. Residence. No period of residence in Idaho shall be required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request only. The Board shall refuse licensure or renew a license if the applicant is not lawfully present in the United States. (~~7-1-93~~)()

02. Character. The Board may refuse licensure if it finds that the applicant has engaged in conduct prohibited by Section 54-1814, Idaho Code; provided the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (7-1-93)

03. English Language. Each applicant shall speak, write, read, understand and be understood in the English language. Evidence of proficiency in the English language must be provided upon request only. ()

~~034.~~ **Application.** Each applicant must have graduated from an acceptable school of medicine, passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed all three (3) steps of the United States Medical Licensing Exam (USMLE) and completed one (1) year of postgraduate training approved by the ~~Accreditation Council for on Graduate Medical Education, the American Osteopathic~~

~~Association~~ ACGME, AOA or Royal College of Physicians and Surgeons of Canada ~~or the Board~~, and shall submit a completed written application to the Board on forms prescribed by the Board, ~~together~~ with the nonrefundable application fee. Any certificate or document required to be submitted to the Board which is not in the English language must be accompanied by a certified translation thereof into English. The application form shall be verified and shall require the following: (3-30-06)(____)

a. ~~The~~ Personal identification information and education background of the applicant including, but limited to, his college education, medical school education and postgraduate training; (7-1-93)(____)

b. An original certificate or document of graduation from an acceptable school of medicine, and evidence of satisfactory completion of postgraduate training of one (1) year at one (1) training program accredited for internship, residency or fellowship training by the ACGME, AOA or Royal College of Physicians and Surgeons of Canada; (7-1-93)(____)

c. The disclosure of any criminal charges, convictions or guilty pleas against the applicant other than minor traffic offenses; (7-1-93)

d. The current mental and physical condition of the applicant, together with disclosure of any previous physical or mental illness which impacts the applicant's ability to practice medicine; (3-30-01)

e. The disclosure of any past or pending medical malpractice actions against the applicant, and the settlements, if any, of such claims; (7-1-93)

f. The disclosure of any disciplinary action by any ~~state~~ board of medicine, licensing authority, medical society, professional society, hospital, medical school, or institution staff in any state or country; (7-1-93)(____)

g. The disclosure of the refusal to issue or renew a license to practice medicine by any state, Canadian or ~~foreign~~ international licensing authority; (3-30-06)(____)

h. References to include two (2) letters of recommendation signed by licensed physicians who have known the applicant professionally for at least one (1) year; (3-30-06)

i. An unmounted photograph of the applicant, of adequate size and clarity to identify the applicant and no larger than four inches tall by three inches wide (4" x 3"), taken not more than one (1) year prior to the date of the application; (3-30-06)

j. A certified copy of a full set of the applicant's fingerprints on forms supplied by the Board which shall be forwarded to the Idaho Department of Law Enforcement and to the FBI Identification Division for the purpose of a fingerprint-based criminal history check of the Idaho central criminal database and the Federal Bureau of Investigation criminal history database; (5-3-03)

k. The employment history and relevant practice locations of the applicant; (3-30-06)

l. Each state, country and jurisdiction in which the applicant has applied for a license to practice medicine; (3-30-06)(____)

m. Each state, country and jurisdiction wherein the applicant is licensed to practice medicine; and (3-30-06)(____)

n. Such other information or examinations as the Board deems necessary to identify and evaluate the applicant's credentials and competency. (3-30-06)

045. Examination. Each applicant must pass an examination acceptable to the Board, within the time period recommended by the examination authority, which shall thoroughly test the applicant's fitness to practice medicine or successfully completed all three (3) steps of the United States Medical Licensing Exam (USMLE). If an applicant fails to pass the examination on two (2) separate occasions the applicant may be required to be interviewed,

evaluated or examined by the Board.

~~(3-30-06)~~(____)

056. Interview. Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicant's qualifications and professional credentials.

(3-30-01)

067. Applicants. All applicants must complete their license application within one (1) year unless extended by the Board after filing an application for extension. Unless extended, applications that remain on file for more than one (1) year will be considered null and void and a new application and new fees will be required as if filing for the first time.

(3-30-06)

078. Health Care Standards. In reviewing the application or conducting the applicant's interview, the Board shall determine whether the applicant possesses the requisite qualifications to provide the same standard of health care as provided by licensed physicians in this state. If the Board is unable to reach such a conclusion through the application and interview, it shall conduct further inquiry, to establish such qualifications.

(3-30-06)

a. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the ~~Federation of State Medical Boards of the United States (FSMB)~~, a post licensure assessment conducted by the ~~Federation of State Medical Boards FSMB~~, or a evaluation by an independent agency ~~approved~~ accepted by the Board to evaluate physician competence; ~~(3-30-06)~~(____)

b. The Board will require further inquiry when in its judgment the need is apparent, including but not limited to the following circumstances:

(3-30-06)

i. Graduate of a ~~foreign international~~ medical school located outside the United States and Canada and not accredited by the ~~Liaison Committee on Medical Education LCME~~; ~~(3-30-06)~~(____)

ii. Applicant whose background investigation reveals evidence of impairment, competency deficit, or disciplinary action by ~~another~~ any licensing or regulatory agency; ~~(3-30-06)~~(____)

iii. An applicant has not been in active medical practice for a period exceeding one (1) year, or when practice has been significantly interrupted; (3-30-06)

iv. An applicant has not written a recognized examination intended to determine ability to practice medicine within a period of five (5) years preceding application; (3-30-06)

v. An applicant whose initial licensure was issued on the basis of an examination not recognized by the Board; or (3-30-06)

vi. When there is any reason whatsoever to question the identity of the applicant. (3-30-06)

c. Recommendations of the assessment and or evaluation acceptable to the Board related to the ability of the applicant to practice medicine and surgery will be considered by the Board in its decision whether to issue a license and the Board may limit, condition, or restrict a license based on the Board's determination and the recommendation of the assessment or evaluation. (3-30-06)

051. LICENSURE FOR GRADUATES OF INTERNATIONAL MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.

01. Foreign International Medical Graduate. In addition to meeting the requirements of Section 050, graduates of international medical schools located outside of the United States and Canada must submit to the Board: ~~(3-30-06)~~(____)

a. ~~An~~ Original certificate from the ~~Educational Commission for Foreign Medical Graduates (ECFMG)~~ or ~~must submit~~ original documentation that the applicant has passed the examination either administered or recognized by the ~~Educational Commission for Foreign Medical Graduates~~; ECFMG and IDAPA 22-01-01 passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed all three

(3) steps of the United States Medical Licensing Exam (USMLE). (3-30-06)()

b. Evidence Original documentation directly from the foreign international medical school which establishes to the satisfaction of the Board that the foreign international medical school meets the standards for medical educational facilities set forth in Subsection 051.02, and that both the scope and content of the applicant's coursework and performance were equivalent to those required of students of medical schools accredited by the LCME; (3-30-06)()

c. An Affidavit Original documentation directly from the foreign international medical school that it has not been disapproved or has its authorization, accreditation, certification or approval denied or removed by any state, country or territorial jurisdiction and that to its knowledge no state of the United States or any country or territorial jurisdiction has refused to license its graduates on the grounds that the school fails to meet reasonable standards for medical education facilities; (7-1-93)()

d. A complete and original transcript from the international medical school showing successful completion of all the courses taken and grades received including an English translation of the documents provided, and original documentation of successful completion of all clinical coursework; and (5-3-03)()

e. Original documentation of successful completion of three (3) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada. ()

f. ECFMG. The certificate from the ECFMG is not required if the applicant holds a license to practice medicine which was issued prior to 1958 in one (1) of the states of the United States and which was obtained by written examination. ()

02. International Medical School Requirements. *A foreign medical school must meet and comply with the following requirements:* (7-1-93)()

a. An international medical school, as listed in the World Health Organization Directory of Medical Schools, which issued its first doctor of medicine degree less than fifteen (15) years prior to an application for licensure, must provide documented evidence of degree equivalency acceptable to the Board including, but not limited to: ()

ai. The doctor of medicine degrees issued must be comparable substantially equivalent to the degrees issued by acceptable medical schools located within the United States or Canada. Equivalency shall be demonstrated, in part, by original documentation of a medical curriculum of not less than thirty-two (32) months, or its equivalent, of full-time classroom instruction and supervised clinical coursework. Such clinical coursework shall be in a hospital or hospitals that, at the time of the applicant's coursework, documented its evaluation of the applicant's performance in writing as a basis for academic credit by the medical school; (7-1-93)()

bii. If the foreign medical school issued its first M.D. degrees after 1975, the school must provide documented evidence of degree equivalency acceptable to the Board. The medical school's admission requirements, including undergraduate academic subject requirements, entrance examination scores, and core curriculum are substantially equivalent to medical schools located within the United States or Canada; (3-30-06)()

ei. If the foreign medical school issued valid degrees prior to 1975, the Board, in its discretion may require documented evidence of degree equivalency. The medical school has adequate learning facilities, class attendance, medical instruction, and clinical rotations consistent with quality medical education. (3-30-06)()

iv. The medical school has not been disapproved or has its authorization, accreditation, certification, licensure, or approval denied or removed by any state, country or territorial jurisdiction; and ()

v. The medical school does not issue diplomas, confer degrees or allow graduation based on Internet or on-line courses inconsistent with quality medical education. ()

b. An international medical school, as listed in the World Health Organization Directory of Medical

Schools, which issued its first doctor of medicine degree more than fifteen (15) years prior to an application for licensure, may, in the Board's discretion, be required to provide original documented evidence of degree equivalency acceptable to the Board. ()

~~03. **Postgraduate Training.** The foreign medical school graduate must submit documentation that the applicant has satisfactorily completed three (3) years of progressive postgraduate training in a program which is located in the United States or Canada, which is approved for such training by the Accreditation Council for Graduate Medical Education and which is conducted under the direction of an acceptable school of medicine; provided however, applicants who do not have an ECFMG certificate must also submit documentation that their three (3) years of postgraduate training included at least one (1) academic year of supervised clinical training conducted under the direction of an acceptable school of medicine.~~ (3-30-06)

~~04. **ECFMG.** The certificate from the Educational Commission for Foreign Medical Graduates is not required if the applicant holds a license to practice medicine which was issued prior to 1958 in one (1) of the states of the United States and which was obtained by written examination.~~ (3-30-06)

~~05. **English Language.** The foreign medical student applicant must be able to speak, write and read the English language.~~ (7-1-93)

052. GRADUATES OF UNAPPROVED INTERNATIONAL MEDICAL SCHOOLS LOCATED OUTSIDE THE UNITED STATES OR CANADA.

In addition to meeting the requirements of Section 050, Graduates of unapproved international medical schools located outside the United States or Canada that do not meet the requirements of Section 051, shall meet submit to the Board an original certificate or document of three (3) of the four (4) following requirements. (3-30-06)()

~~01. **Hold Valid ECFMG Certificate.** Hold a valid certificate issued by ECFMG.~~ (5-3-03)()

~~02. **Three (3) Years of Completed Post Graduate Training.** Completed Successful completion of three (3) years of progressive post graduate training at one (1) training program accredited for internship, residency or fellowship training in an American Council for Graduate Medical Education (ACGME) or American Osteopathic Association (AOA) or Royal College of Physicians and Surgeons of Canada approved program.~~ (3-30-06)()

~~03. **Hold Board Certification.** Hold current Board certification by a speciality specialty board approved by the American Board of Medical Specialities Specialties or the AOA.~~ (5-3-03)()

~~04. **Have Five (5) Years Unrestricted Practice.** Provide Evidence of five (5) years of unrestricted practice as a licensee of any United States or Canadian jurisdiction.~~ (5-3-03)()

(BREAK IN CONTINUITY OF SECTIONS)

077. INACTIVE LICENSE.

01. Issuance of Inactive License. Any applicant who is entitled eligible to be issued a license to practice medicine, except a volunteer license, may be issued, upon request, an inactive license to practice medicine on the condition that he will not engage in the practice of medicine in this state. An inactive license fee shall be collected by the Board. (3-30-06)()

02. Inactive License Renewal. Inactive licenses shall be issued for a period of not less than one (1) year or more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee. The inactive license certificate shall set forth its date of expiration. (3-30-06)

03. Inactive to Active License. An inactive license may be converted to an active license to practice medicine by application to the Board and payment of required fees. Before the license will be converted the applicant must account for the time during which an inactive license was held. The Board may, in its discretion, require a personal interview. (7-1-93)

078. LICENSES.

01. Licensure Expiration. Each license to practice medicine shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate. Prorated fees may be assessed by the Board to bring the expiration date of the license within the next occurring license renewal period. The Board may condition the issuance of such a license for the full term upon the occurrence of events specified by the Board and the Board may extend a license for an intermediate period of time. (3-30-06)

02. Renewal. Each license to practice medicine may be renewed prior to its expiration date by the payment of a renewal fee to the Board and by completion of a renewal form provided by the Board. In order to be eligible for renewal, a licensee must provide a current address to the Board and must notify the Board of any change of address prior to the renewal period. Licenses not renewed by their expiration date shall be canceled. (3-30-06)

03. Reinstatement. Licenses canceled for nonpayment of renewal fees may be reinstated by filing a reinstatement application on forms prescribed by the Board and upon payment of a reinstatement fee and applicable renewal fees for the period the license was lapsed. (3-30-06)

04. Relicensure. ~~Persons~~ Physicians whose licenses have been canceled for a period of more than five (5) years, shall be required to make application to the Board as new applicants for licensure. (~~7-1-93~~)(____)

079. CONTINUING MEDICAL EDUCATION (CME) REQUIRED.

01. Purpose. The purpose of practice relevant CME is to enhance competence, performance, understanding of current standards of care, and patient outcomes. (5-3-03)

02. Renewal. Each person licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall complete no less than forty (40) hours of practice relevant, Category 1, CME every two (2) years. (5-3-03)

03. Approved Programs. All education offered by institutions or organizations accredited by the ~~Accreditation Council on Continuing Medical Education (ACCME)~~ and reciprocating organizations or the ~~American Osteopathic Association (AOA)~~ are considered approved. (~~5-3-03~~)(____)

04. Verification of Compliance. Licensees shall, at license renewal, provide a signed statement to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. (5-3-03)

05. Alternate Compliance. The Board may accept certification or recertification by a member of the American Board of Medical Specialties, the American Osteopathic Association Bureau of Professional Education, or the Royal College of Physicians and Surgeons of Canada in lieu of compliance with continuing education requirements during the cycle in which the certification or recertification is granted. The Board may also grant an exemption for full time participation in a residency or fellowship training at a professionally accredited institution. (5-3-03)

06. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any person whom the Board determines has failed to comply with the continuing education requirements of this chapter. (5-3-03)

080. VOLUNTEER LICENSE.

01. License. Upon completion of an application and verification of qualifications, the Board may issue a volunteer license to a physician who is retired from active practice for the purpose of providing medical service to people who, due to age, infirmity, handicap, indigence or disability, are unable to receive regular medical treatment. (3-30-06)

02. Retired Defined. A physician previously holding a license to practice medicine and surgery and osteopathic medicine and surgery in Idaho or another state shall be considered retired if, prior to the date of the application for a volunteer's license, he has: (3-30-06)

a. Surrendered or allowed his license with active status to expire with the intent of ceasing active practice for remuneration or; (3-30-06)

b. Converted his active license to an inactive status with the intention of ceasing to actively practice for remuneration or; (3-30-06)

c. Converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice of medicine. (3-30-06)

03. Eligibility. A physician whose license has been restricted, suspended, revoked surrendered, resigned, converted, allowed to lapse or expire as the result of disciplinary action or in lieu of disciplinary action shall not be eligible for a volunteer license. The volunteer license cannot be converted to a license with active, inactive or temporary status. (3-30-06)

04. Application. The application for a volunteer license shall include the requirements listed in Section 050 of these rules and: (3-30-06)

a. Verification that the applicant held an active license in good standing in Idaho or another state within five (5) years of the date of application for a volunteer license. (3-30-06)

b. The Board may at its discretion issue a volunteer license to a physician who has not held an active license in good standing for greater than five (5) years if the applicant has completed an examination acceptable to the Board that demonstrates the applicant possesses the knowledge and skills required to practice. (3-30-06)

c. A notarized statement from the applicant on a form prescribed by the Board, that the applicant will not provide any physician services to any person other than those permitted by the license and that the applicant will not accept any amount or form of remuneration, other than as reimbursement for the amount of actual expenses incurred as a volunteer physician, for any physician services provided under the authority of a volunteer's license. (3-30-06)

d. A completed self query of the National Practitioner Databank submitted to the Board. (3-30-06)

05. Expiration. The volunteer license shall be valid until the expiration date printed on the license and may be renewed in accordance with these rules. (3-30-06)

06. Discipline. The volunteer license is subject to discipline in accordance with Section 54-1814, Idaho Code, and these rules. (3-30-06)

081. -- 099. (RESERVED).

100. FEES. -- TABLE.

01. Fees -- Table. ~~Nonrefundable Fees by the Board~~ are as follows:

Fixed Fees -- Table	
Licensure Fee	<u>Not more than \$4600</u>
Temporary License	<u>Not more than \$4300</u>
Reinstatement License Fee plus total of renewal fees not paid by applicant	<u>Not more than \$4300</u>

Fixed Fees -- Table	
Inactive License Renewal Fee	<u>Not more than \$75100</u>
Renewal of License to Practice Medicine Fee	<u>Not more than \$2300</u>
Reactivation License Fee	<u>Not more than \$4200</u>
Duplicate Wallet License	<u>Not more than \$420</u>
Duplicate Wall License	<u>Not more than \$250</u>
Volunteer License Application Fee	\$0
Volunteer License Renewal Fee	\$0

(3-30-06)()

02. Administrative Fees for Services. Administrative fees for services shall be billed on the basis of time and cost. (7-1-93)

101. ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION OR DISCIPLINARY SANCTIONS.

01. Discipline. In addition to the statutory grounds for medical discipline set forth in Idaho Code, Section 54-1814, every person licensed to practice medicine or registered as an extern, intern, resident or physician's assistant is subject to discipline by the Board upon any of the following grounds: (7-1-93)()

02. Unethical Advertising. Advertising the practice of medicine in any unethical or unprofessional manner, includes but is not limited to: (7-1-93)

a. Using advertising or representations likely to deceive, defraud or harm the public. (7-1-93)

b. Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment or remedy prescribed by him or her at his or her direction in the treatment of any disease or other condition of the body or mind. (7-1-93)

03. Standard of Care. Providing health care which fails to meet the standard of health care provided by other qualified physicians in the same community or similar communities, includes but is not limited to: (7-1-93)

a. Being found mentally incompetent or insane by any court of competent jurisdiction. (7-1-93)

b. Engaging in practice or behavior that demonstrates a manifest incapacity or incompetence to practice medicine. (7-1-93)

c. Allowing another person or organization to use his or her license to practice medicine. (7-1-93)

d. Prescribing, selling, administering, distributing or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to himself or herself or to a spouse, child or stepchild. (3-19-99)

e. Violating any state or federal law or regulation relating to controlled substances. (7-1-93)

f. Directly promoting surgical procedures or laboratory tests that are unnecessary and not medically indicated. (7-1-93)

g. Failure to transfer pertinent and necessary medical records to another physician when requested to do so by the subject patient or by his or her legally designated representative. (7-1-93)

h. Failing to maintain adequate records. Adequate patient records means legible records that contain, at a minimum, subjective information, an evaluation and report of objective findings, assessment or diagnosis, and the plan of care. (3-30-06)

04. Conduct. Engaging in any conduct which constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient, includes but is not limited to: (7-1-93)

a. Obtaining any fee by fraud, deceit or misrepresentation. (7-1-93)

b. Employing abusive billing practices. (7-1-93)

c. Failure to transfer pertinent and necessary medical records to another physician when requested to do so by the subject patient or by his or her legally designated representative. (7-1-93)

d. Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's practice of medicine. (7-1-93)

i. Consent of the patient shall not be a defense. (3-19-99)

ii. Section 101 does not apply to sexual contact between a medical care provider and the provider's spouse or a person in a domestic relationship who is also a patient. (3-19-99)

iii. A former patient includes a patient for whom the physician has provided medical services or prescriptions within the last twelve (12) months. (3-19-99)

iv. Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the physician uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient. (3-19-99)

e. Accepting any reimbursement for service, beyond actual expenses, while providing physician services under a volunteer license. (3-30-06)

f. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient, Board or Committee on Professional Discipline member, Board staff, hearing officer or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation or other legal action. (3-30-06)

g. Failure to obey state and local laws and rules governing the practice of medicine. ()

h. Failure to be lawfully present in the United States. ()

IDAPA 22 - BOARD OF MEDICINE

22.01.02 - RULES OF THE BOARD OF MEDICINE FOR THE REGISTRATION OF EXTERNS, INTERNS, AND MEDICAL RESIDENTS

DOCKET NO. 22-0102-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-1806 (2)(11), 54-1806A, 54-1812, 54-1813 (2) and 54-1814, 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 October 17, 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 proposed changes amend existing language relating to the registration for students and graduates of medical schools in the U.S. and Canada as well as international medical students and graduates; clarify medical education requirements; include definitions; broaden the fee schedule and to update and clarify rules.

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

The fee schedule has been broadened, however, there will be no increase in fees. Authority for imposition of this fee is found in Section 54-1807, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted, however, the Board received input and comments from legislators, international medical school students and graduates, physicians and the public regarding the registration of qualified externs, interns and residents from international medical schools particularly given the shortage of physicians in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 21, 2007.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
PO Box 83720-0058
Boise, Idaho 83704
Telephone: (208) 327-7000
Fax: (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0102-0701

**22.01.02 - RULES OF THE BOARD OF MEDICINE FOR THE REGISTRATION
OF EXTERNS, INTERNS, AND ~~MEDICAL~~ RESIDENTS**

000. LEGAL AUTHORITY.

Pursuant to Idaho Code, Sections 54-1806 (2)(11), ~~and Section~~ 54-1806A, 54-1812, 54-1813 (2) and 54-1814, the Idaho State Board of Medicine is authorized to promulgate rules to govern the activities of persons employed as or serving as externs, interns and residents. (7-1-93)()

001. TITLE AND SCOPE.

The rules shall be cited as IDAPA 22.01.02, "Rules of the Board of Medicine for the Registration of Externs, Interns, and ~~Medical~~ Residents." (7-1-93)()

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ()

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine." ()

004. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

005. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's web site is www.bom.state.id.us. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ()

008. SEVERABILITY.

The sections and subsections of these administrative rules are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. ()

~~002.~~ 009. (RESERVED).

010. DEFINITIONS.

01. Acceptable Post Graduate Training Program. A post graduate medical training program or course of medical study which has been approved by the Accreditation Council for Graduate Medical Education (ACGME) or American Osteopathic Association. ()

042. Acceptable Training Program. A medical training program or ~~approved~~ course of medical study which has been approved by the Liaison Committee for Medical Education (LCME), Council on Medical Education, or American Osteopathic Association ~~or the Board.~~ (3-15-78)()

03. Acceptable Post Graduate Training Program. A post graduate medical training program or course of medical study which has been approved by the Accreditation Council for Graduate Medical Education (ACGME) or American Osteopathic Association. ()

04. Accreditation Council for Graduate Medical Education (ACGME). A nationally recognized accrediting authority responsible for accreditation of post-Doctor of Medicine medical training programs within the United States or its successor. ()

065. Alternate Supervising Physician. A physician currently licensed to practice medicine and surgery or licensed to practice osteopathic medicine and surgery in Idaho who has been designated by the supervising physician and approved by the Board ~~to supervise~~ who is responsible for the direction and supervision of the extern, intern, or resident in the temporary absence of the supervising physician. (3-15-78)()

046. Board. The Idaho State Board of Medicine. (3-15-78)

07. Educational Commission for Foreign Medical Graduates (ECFMG). A nationally recognized non-profit organization that certifies international medical graduates who seek to enter United States residency and fellowship programs and conducts the Clinical Skills Assessment (CSA) or its successor. ()

028. Extern. A bona fide student enrolled in an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.031 or 010.02, who has not received his degree. (3-15-78)()

039. Intern or Resident. Any person who has completed a course of study at an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.031 or 010.02, and who is enrolled in an acceptable postgraduate medical training program. (3-15-78)()

10. Liaison Committee on Medical Education (LCME). An internationally recognized accrediting authority, sponsored by the Association of American Medical Colleges and the American Medical Association, for medical education programs leading to a Doctor of Medicine degree in United States and Canadian medical schools or its successor. ()

11. Original Certificate or Document. An original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board or a Board approved credential verification service. ()

12. Person. A natural, living human individual. ()

0513. Supervising Physician. A ~~person~~ physician approved by the Board who ~~is licensed~~ holds a current active license to practice medicine and surgery or osteopathic medicine and surgery in Idaho, in good standing with no restrictions upon or actions taken against his license, who signs the application for registration of a extern, intern or resident, and who is responsible for the direction and supervision of their activities. (3-15-78)()

011. -- 015. (RESERVED).

016. REQUIREMENTS FOR REGISTRATION OF EXTERNS, INTERNS, AND RESIDENTS.

01. Residence. No period of residence in Idaho shall be required of any applicant, however, each

applicant for registration must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request only. The Board shall refuse to issue a registration or renew a registration if the applicant is not lawfully present in the United States. ()

02. English Language. Each applicant shall speak, write, read, understand and be understood in the English language. Evidence of proficiency in the English language must be provided upon request only. ()

03. Application. Each extern, intern or resident intending to commence activities in the state of Idaho which may involve activities constituting the practice of medicine, must submit a completed registration application to the Board on forms furnished by the Board and be issued a registration certificate prior to the commencement of any such activities. Any diploma or other document required to be submitted to the Board which is not in the English language must be accompanied by a certified translation thereof into English. The application form shall be verified and shall require the following information: (3-15-78)()

a. Personal identification information and the educational background of the extern, intern, or resident including his college education, medical school education and any postgraduate training programs; (3-15-78)()

b. The disclosure of any criminal convictions, criminal charges, medical disciplinary actions or medical malpractice actions involving the extern, intern, or resident; (3-15-78)

c. A complete description of the program or course of study ~~he~~ in the acceptable training program or acceptable post graduate training program the applicant intends to follow, including documentation of the liability coverage to be provided to the applicant; (3-15-78)()

d. The name and address of the supervising physician and alternate supervising physician and the location of the program or course of study; (3-15-78)

e. The signature by the supervising physician and alternate supervising physician by which they acknowledge and accept responsibility for the activities of the extern, intern, or resident; (3-15-78)

f. An original certificate or document confirming ECFMG certification of the international medical graduate; and ()

fg. Such other information as the Board deems relevant in reviewing the registration application. (3-15-78)

017. GENERAL PROVISIONS FOR REGISTRATION.

01. Character. The Board may refuse registration or to renew registration if it finds that the applicant has engaged in conduct prohibited by Section 54-1814, Idaho Code; provided the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. ()

02. No Action on Application. An application upon which the applicant takes no further action will be held for no longer than one (1) year. ()

03. Registration Certificate. Upon approval of the registration application, the Board ~~shall~~ may issue a registration certificate which shall set forth the period during which the registrant ~~is entitled to~~ may engage in activities which may involve the practice of medicine, ~~and which.~~ Each registration shall be issued for a period of not less than one (1) day or more than three (3) years and shall set forth its expiration date on the face of the certificate. Each registration shall identify the supervising physician and alternate supervising physician. If the Board deems the intern or resident qualified, and if the course study requires, the Board shall may additionally certify on the registration certificate that the intern or resident is qualified to write prescriptions for Class III through Class V scheduled (but nontriplerate) medications. (3-15-78)()

04. Termination of Registration. The registration of an extern, intern or resident may be terminated, suspended or made conditional by the Board on the grounds set forth in Section 54-1814, Idaho Code, and under the

procedures set forth in Section 54-1806A, Idaho Code. (3-15-78)

05. Extension of Registration. Each registration may be extended one (1) time and may be extended prior to its expiration date upon approval of a written request to the Board. Registrations not extended by their expiration date shall be canceled. ()

06. Notification of Change. Externs, interns and residents must notify the Board of any adverse action or termination from any training program or post graduate training program and any name changes within thirty (30) days of such event. ()

07. Disclosure. It shall be the responsibility of each registrant to ensure that every patient is aware of the fact that such extern, intern and resident is currently enrolled in a training program or post graduate training program and under the supervision of a licensed physician. This disclosure requirement can be fulfilled by the use of name tags, correspondence, oral statements or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the extern, intern and resident. ()

0178. FEES.

01. Registration Fee. The nonrefundable registration fee shall be no more than ~~ten~~ twenty-five dollars (\$~~10~~25). (7-1-93)()

02. Other. Administrative fee for services, including photocopying and review of records shall be billed on the basis of time and charges. (3-15-78)

0189. EFFECTIVE DATE.

These rules shall be effective March 15, 1978 and thereafter. (3-15-78)

~~01920.~~ -- 999. (RESERVED).

IDAPA 22 - BOARD OF MEDICINE

22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO

DOCKET NO. 22-0111-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-4304A, 54-4305, 54-4309, 54-4311, 54-4312, 54-4314 and 54-4316, 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 October 17, 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 proposed changes amend existing language to include a renewal requirement of current CRT certification, current RRT registration or current registration as a polysomnographic technologist; require English language proficiency; require lawful presence in the U.S.; broaden the fee schedules and to update and clarify rules.

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

The Licensure Board recognized the need to broaden the fee schedules and to increase three (3) reinstatement fees to reflect and provide for real costs of administration. The respiratory care practitioner license reinstatement fee was increased from thirty-five dollars (\$35) to fifty dollars (\$50); the polysomnographic technologist/technician permit reinstatement fee was increased from thirty-five dollars (\$35) to fifty dollars (\$50) and the dual license/permit reinstatement fee was increased from thirty-five dollars (\$35) to fifty dollars (\$50). Authority for imposition of these fees is found in Section 54-4311, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there was no controversy on the amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 21st, 2007.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140, Boise, ID 83704
PO Box 83720, Boise, Idaho 83720-0058
Telephone: (208) 327-7000
Fax: (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0111-0701

000. LEGAL AUTHORITY.

Pursuant to Sections ~~54-4304A, 54-4305, 54-4309, 54-4310, 54-4311, 54-4312 and 54-4316~~ ~~and 54-4304A~~, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules governing the practice of respiratory care and polysomnography related respiratory care. (3-16-04)(____)

(BREAK IN CONTINUITY OF SECTIONS)

008. SEVERABILITY.

The sections and subsections of these administrative rules are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. (____)

~~008.~~ **009. (RESERVED).**

010. DEFINITIONS.

- 01. Act.** The Respiratory Care Practice Act of 1991, Title 54, Chapter 43, Idaho Code. (4-28-93)
- 02. Applicant.** A person who applies for a license, dual license/permit, permit, conditional permit, or a temporary permit pursuant to this chapter and Title 54, Chapter 43, Idaho Code. (3-16-04)
- 03. Board.** The Idaho State Board of Medicine, established pursuant to Section 54-1805, Idaho Code. (3-16-04)
- 04. Board of Registered Polysomnographic Technologists.** A nationally recognized private testing, examining and credentialing body for the polysomnography related respiratory care profession. (3-16-04)
- 05. Certified Pulmonary Function Technologist (CPFT).** The professional designation earned by a person who has successfully completed the entry level pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (3-16-04)
- 06. Certified Respiratory Therapist (CRT).** The professional designation earned by a person who has successfully completed the entry level examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (3-16-04)
- 07. Comprehensive Registry Exam.** The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). (3-16-04)
- 08. Conditional Permit.** A time-restricted permit issued by the Board, upon the recommendation of the Licensure Board, as set forth in this chapter and Section 54-4304A, Idaho Code, to a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, on or after January 1, 2004, and issued until issuance of permits as provided in this chapter. (3-16-04)
- 09. Entry Level Examination.** The certification examination for entry level respiratory therapy practitioners administered by the National Board for Respiratory Care, Inc., or certification examination administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of "Certified Respiratory Therapist" (CRT). (3-16-04)

10. Licensed Physician. A physician licensed to practice medicine and surgery or osteopathic medicine and surgery, by the Idaho State Board of Medicine. (3-16-04)

11. Licensure. The issuance of a license to an applicant under the provisions of this chapter and Title 54, Chapter 43, Idaho Code entitling such person to hold himself out as a respiratory care practitioner and to practice or perform respiratory care in this state. (3-16-04)

12. Licensure Board. The Licensure Board established by this chapter and Section 54-4313, Idaho Code. (3-16-04)

13. Medical Practice Act. The Medical Practice Act of 1977, Title 54, Chapter 18, Idaho Code. ()

134. National Board of Respiratory Care, Inc. A nationally recognized private testing, examining and credentialing body for the respiratory care profession. (3-16-04)

145. Performance of Respiratory Care. Respiratory care practiced or performed in accordance with the written, telephonic or verbal prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases, (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy, pharmacologic agents related to respiratory care protocols, mechanical or physiological ventilatory support; bronchopulmonary hygiene, cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection, reporting and analysis of specimens of blood and blood gases, arterial punctures, insertion and maintenance of arterial lines, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologic measurements of the cardiopulmonary system, observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; implementation based on observed abnormalities of appropriate reporting or referral of respiratory care or changes in treatment regimen, pursuant to a prescription by a physician or the initiation of emergency procedures. (4-28-93)

156. Permit. The issuance of a permit to an applicant under the provisions of this chapter and Section 54-4304A, Idaho Code, entitles such person to hold himself out as a registered polysomnographic technologist, polysomnographic technician, or polysomnographic trainee and to perform polysomnography related respiratory care in this state. (3-16-04)

167. Person. A natural living human individual. (3-16-04)

178. Polysomnographic Technician. A person who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the supervision of an Idaho permitted registered polysomnographic technologist, licensed respiratory care practitioner or an Idaho licensed physician. (3-16-04)

189. Polysomnographic Trainee. A person who holds a temporary permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the direct supervision of an Idaho licensed respiratory care practitioner, or a person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician or an Idaho licensed physician. Direct supervision by an Idaho licensed respiratory care practitioner, or such person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, or an Idaho permitted registered polysomnographic technologist or technician, or an Idaho licensed physician, means that such a person shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee. (3-16-04)

1920. Polysomnography. The process of analysis, attended monitoring and recording of physiologic data

during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders, syndromes and dysfunctions that either are sleep related, manifest during sleep or disrupt normal sleep/wake cycles and activities. (3-16-04)

201. Polysomnography Related Respiratory Care Services. The limited practice of respiratory care in the provision of polysomnography services, under the supervision of an Idaho licensed physician, by a person at a sleep disorder center or laboratory who holds a permit issued by the Board, as a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, or who is otherwise licensed as a respiratory care practitioner or who is exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code. Polysomnography related respiratory care services include therapeutic and diagnostic use of oxygen, noninvasive ventilatory assistance of spontaneously breathing patients and cardiopulmonary resuscitation and maintenance of nasal and oral airways that do not extend into the trachea, as ordered by an Idaho licensed physician or by written procedures and protocols of the associated sleep disorder center or laboratory as approved by an Idaho licensed physician and which do not violate any rules adopted by the Board. This chapter does not in any way authorize the practice of medicine or any of its branches by any person not so licensed by the Board. Further, licensed respiratory practitioners, and those exempt from licensure pursuant to this chapter and Section 54-4308, Idaho Code, are not limited in their scope of practice of provision of respiratory care, which they may provide, including care in connection with the provision of polysomnography services. (3-16-04)

212. Practice of Respiratory Care. Means, but shall not be limited to, the provision of respiratory and inhalation therapy which shall include, but not be limited to: therapeutic and diagnostic use of medical gases, humidity and aerosols including the maintenance of associated apparatus; administration of drugs and medications to the cardiorespiratory system; provision of ventilatory assistance and ventilatory control; postural drainage, percussion, breathing exercises and other respiratory rehabilitation procedures; cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways; and the transcription and implementation of a physician's written, telephonic or verbal orders pertaining to the practice of respiratory care. It also includes testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment and research. This shall be understood to include, but not be limited to, measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing and hemodynamic and other related physiological monitoring of the cardiopulmonary system. The practice of respiratory care is not limited to the hospital setting but shall be performed under the general supervision of a licensed physician. (4-28-93)

223. Respiratory Care Protocols. Policies, procedures or protocols developed or instituted by health care facilities or institutions, through collaboration when appropriate or necessary with administrators, physicians, registered nurses, physical therapists, respiratory care practitioners and other licensed, certified or registered health care practitioners. (4-28-93)

234. Registered Polysomnographic Technologist (RPSGT). The professional designation earned by a person who has successfully completed the comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or by an equivalent board, recognized by the Board, and who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who works under the supervision of an Idaho licensed physician to provide polysomnography related respiratory care services. (3-16-04)

245. Registered Pulmonary Function Technologist (RPFT). The professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or an advanced pulmonary function certification examination administered by an equivalent board, recognized by the Board. (3-16-04)

256. Registered Respiratory Therapist (RRT). The professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the National Board for Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board. (3-16-04)

267. Respiratory Care. Allied health profession responsible for the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under the general supervision of a licensed physician. (2-23-94)

- ~~278.~~ **Respiratory Care Practitioner.** A person who has been issued a license by the Board. (3-16-04)
- ~~289.~~ **Respiratory Therapist.** A person who practices or provides respiratory care. (4-28-93)
- ~~2930.~~ **Respiratory Therapy.** The practice or performance of respiratory care, including but not limited to, inhalation therapy. (4-28-93)

~~301.~~ **Sleep Disorder Center or Laboratory.** A facility for sleep related disorders that provides polysomnography and is under the supervision of an Idaho licensed physician or medical director licensed by the Board who is responsible for patient care provided in such center or laboratory. A sleep disorder center or laboratory that provides polysomnography related respiratory care to patients shall have an Idaho licensed respiratory care practitioner, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, or a person exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code, in constant attendance. (3-16-04)

~~342.~~ **Supervision of Respiratory Care.** The practice or provision of respiratory care by *individuals persons* holding a student or consulting and training exemption, or temporary permit shall be in direct association with a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the *individual person* being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the *individual person* being supervised shall be determined by the competency of the *individual person*, the treatment setting, and the diagnostic category of the client. (~~3-16-04~~)(____)

~~323.~~ **Temporary Permit.** The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a respiratory care practitioner applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a polysomnographic trainee applicant who meets the requirements set forth in this chapter and Section 54-4304A, Idaho Code. (3-16-04)

~~334.~~ **Written Registry and Clinical Simulation Examinations.** The certification examinations administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). (3-16-04)

011. BOARD OF MEDICINE AND LICENSURE BOARD.

01. Powers and Duties. The Board of Medicine shall administer, coordinate and enforce the provisions of this chapter and Title 54, Chapter 43, Idaho Code, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The Board is authorized to enter into such contracts with the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board, as may be necessary or advisable to provide for or to facilitate verification of any applicant's claim that such applicant has successfully completed the entry level examination and/or the written registry and clinical simulation examinations or comprehensive registry examination. The Licensure Board will work in conjunction with the Board and will perform the duties and functions assigned by the Board, including: (3-16-04)

- a.** Holding meetings, conducting interviews and keeping records and minutes as are necessary to carry out its functions. (3-16-04)
- b.** Evaluating the qualifications of all applicants, making recommendations to and consulting with the Board concerning issuing, renewing and revoking licenses and permits. (3-16-04)
- c.** Performing investigations of misconduct and making recommendations regarding discipline to the Board. (3-16-04)

d. Maintaining a list of respiratory care and polysomnography related respiratory care practitioners currently holding a license or permit in this state. (3-16-04)

02. Membership. The Licensure Board shall consist of five (5) members appointed by the Board, three (3) of whom shall be certified respiratory care practitioners, one (1) of whom, in addition to being an Idaho licensed respiratory care practitioner, shall also be an Idaho permitted registered polysomnographic technologist. All members shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the Licensure Board who are required to be licensed or hold permits under this chapter shall have been engaged in rendering respiratory care services and polysomnography related respiratory care services, respectively, to the public, in teaching, or in research in respiratory care and polysomnography related respiratory care services, respectively, for at least five (5) years immediately preceding their appointments. Three (3) members shall at all times be holders of valid licenses for the practice of respiratory care in Idaho and one (1) member shall also be a holder of a valid Idaho permit as a registered polysomnographic technologist, except for the members of the first Licensure Board following the effective date of this chapter, all of whom shall, at the time of appointment, hold the designation of certified respiratory therapy technician or registered respiratory therapist conferred by the National Board for Respiratory Care, Inc., and all of whom meet the requirements for licensure under the provisions of this chapter. The remaining two (2) members of the Licensure Board shall be members of health professions or members of the public with an interest in the rights of the consumers of health services. Each member of the Licensure Board shall be compensated as provided in Section 59-509(h), Idaho Code. (3-16-04)

03. Appointment. The two (2) members of the Licensure Board who shall be licensed respiratory care practitioners shall be selected by the Board after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho Society of Respiratory Care or other interested associations. The member of the Licensure Board who shall be a licensed respiratory care practitioner and an Idaho permitted registered polysomnographic technologist shall be selected by the Board after considering a list of three (3) qualified applicants submitted by the Idaho Sleep Disorder Association or other interested associations. In the event of a vacancy in one (1) of the positions, the Idaho Society of Respiratory Care or other interested association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified ~~individual person~~. The remaining two (2) public members shall be selected by the Board, who may solicit nominations of qualified applicants submitted by the Idaho Society For Respiratory Care, the Idaho Sleep Disorder Association or other interested associations or ~~individuals persons~~. The first vacancy on the Licensure Board which occurs following the effective date of this chapter shall be filled by the appointment of a licensed respiratory care practitioner who is also the holder of a valid Idaho permit as a registered polysomnographic technologist. The Board may remove any Licensure Board member for misconduct, incompetence, or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Licensure Board. (~~3-16-04~~)(____)

04. Meetings. The Licensure Board shall hold biannual meetings and elect a chairman who shall preside at meetings of the Licensure Board. In the event the chairman is not present at any Licensure Board meeting, the Licensure Board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the Licensure Board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) Licensure Board members. (3-16-04)

05. Terms. All appointments shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the appointment or when successors are appointed. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

031. GENERAL PROVISIONS FOR LICENSURE AND PERMITS.

01. Moral Character. An applicant for licensure must be of good moral character and shall meet the requirements set forth in Section 54-4306, Idaho Code. An applicant for a permit must be of good moral character and

shall meet the requirements set forth in Section 54-4304A, Idaho Code. The Board may refuse licensure or to issue a permit if it finds the applicant has engaged in conduct prohibited by Section 54-4312, Idaho Code, providing the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (3-16-04)

02. No Action on Application. An application upon which the applicant takes no further action will be held for no longer than one (1) year. (4-28-93)

03. Residence. No period of residence in Idaho shall be required of any applicant, however, each applicant for licensure or permit must be legally able to work and live in the United States. An original certificate or documentation of lawful presence in the United States must be provided upon request only. The Board shall refuse licensure or renew a license or permit if the applicant is not lawfully present in the United States. ()

04. English Language. Each applicant shall speak, write, read, understand and be understood in the English language. Evidence of proficiency in the English language must be provided upon request only. ()

032. APPLICATION FOR LICENSURE AND PERMITS.

01. All Applications. Each applicant for licensure or permit shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The Board may, in its discretion, prorate the application fees charged in conjunction with an application for initial licensure or a temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. The application shall be verified and under oath and shall require documentation of the following information: (4-11-06)

a. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; and (2-23-94)

b. The disclosure of any charge, investigation or disciplinary action against the applicant by any state professional regulatory agency or professional organization that bears a demonstrable relationship to the ability of the applicant to practice in accordance with the provisions of this chapter; and (3-16-04)

c. The disclosure of the denial of registration or licensure by any country, state or district regulatory body; and (~~2-23-94~~)()

d. Not less than two (2) certificates of recommendation from persons, other than relatives or ~~individuals~~ persons living with the applicant, who have personal knowledge of at least one (1) year of the applicant's character and the applicant's ability to work as a respiratory therapist or provide polysomnography related respiratory care services; and (~~3-16-04~~)()

e. One (1) unmounted photograph of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; and (2-23-94)

f. Such other information as deemed reasonably necessary and as is lawful for the Board to identify and evaluate the applicant's credentials; and (3-16-04)

g. Evidence that applicant is no less than eighteen (18) years of age. (3-16-04)

h. The Board may, at its discretion, require the applicant to appear for a personal interview. (3-16-04)

02. Application for Respiratory Care Practitioner. (3-16-04)

a. Documentation of evidence that applicant has passed the entry level examination and is a Certified Respiratory Therapist (CRT) or has successfully completed the written registry and clinical simulation examinations and is a Registered Respiratory Therapist (RRT); or (3-16-04)

b. Documentation that the applicant is licensed as a respiratory care practitioner, or the equivalent at the discretion of the Board, in another state, district or territory of the United States. (3-16-04)

c. Application for Temporary Permit. The Board may issue a temporary permit to an applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. A temporary permit shall authorize the practice of respiratory care under the supervision of a respiratory care practitioner or licensed physician. (3-16-04)

i. A temporary permit for a respiratory care practitioner may be converted to a permanent license by providing to the Board, verification of appropriate certification as a Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT). (3-16-04)

ii. A temporary permit shall be effective for one (1) year from the date of issuance. (4-28-93)

iii. A temporary permit may be renewed one (1) time for a period of one (1) year, upon application to the Board. (4-28-93)

iv. Application for a temporary permit shall be made to the Board on a form prescribed by the Board, together with the application fee. The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

03. Application for Inactive License. A person holding a current license issued by the Board to practice as a respiratory care practitioner may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of respiratory care services as a respiratory care practitioner in this state. (3-16-04)

a. Issuance and Renewal. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than ~~fifty one hundred~~ dollars (\$~~5100~~) for each renewal year. Such inactive licenses shall expire on the expiration date printed on the face of the certificate unless renewed. (~~3-16-04~~)(____)

b. Inactive to Active License. An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than ~~fifty one hundred~~ dollars (\$~~5100~~) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (~~3-16-04~~)(____)

04. Application for Respiratory Care and Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4306 and 54-4304A(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. (3-16-04)

b. Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. (3-16-04)

c. Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. (3-16-04)

05. Application for Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to the chapter and Section 54-4308, Idaho Code, or who hold a permit issued by the Board as registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees may provide

polysomnography related respiratory care services. (3-16-04)

b. Qualifications for permit. An applicant for a permit to provide polysomnography related respiratory care services as a registered polysomnographic technologist or polysomnographic technician or for a temporary permit as a polysomnographic trainee under the provisions of Section 032 who is not otherwise licensed to provide respiratory care services or exempt from the requirements of this chapter pursuant to Section 54-4308, Idaho Code, must provide documentation of: (3-16-04)

i. Being a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and (3-16-04)

ii. Being currently certified in cardiopulmonary resuscitation (CPR). (3-16-04)

c. Application for Registered Polysomnographic Technologist. An applicant must provide documentation of successful completion of the comprehensive registry examination as a registered polysomnographic technologist administered by the Board of Registered Polysomnographic Technologists or an equivalent examination, approved by the Board as recommended by the Licensure Board. (3-16-04)

d. Application for Polysomnographic Technician. An applicant must provide written documentation and a signed affidavit affirming and attesting to one (1) of the following qualifications: (3-16-04)

i. Successful completion of a polysomnography program of not less than one (1) year duration, associated with a state licensed or a nationally accredited educational facility, as approved by the Board, as recommended by the Licensure Board; or (3-16-04)

ii. Successful completion of a minimum of seven hundred twenty (720) hours of experience as a polysomnographic trainee with documented proficiency in polysomnography related respiratory care services, as approved by the Board, as recommended by the Licensure Board. (3-16-04)

e. Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. The Affiant need not be the direct supervisor at any given time. Such Affiant shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the polysomnographic trainee's permit, the Affiant of the trainee changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant who will ensure that the trainee has direct supervision. In addition, the applicant shall provide written documentation he has at least one (1) of the following qualifications: (3-16-04)

i. At least seven hundred twenty (720) hours of experience as a paid employee or contractor in a health care related field. For the purposes of this Section, experience as a paid employee or contractor in a health care related field shall include any work providing direct clinical care to patients or having worked in a clinical care setting in which the applicant had direct interaction with patients, and an opportunity to observe the provision of clinical care to patients; (3-16-04)

ii. Current enrollment in a polysomnography program associated with a state licensed or a nationally accredited education facility; or (3-16-04)

iii. Successful completion of twenty-four (24) semester credit hours (or a quarter (¼) hour system equivalent of the same) of postsecondary education at a state licensed or nationally accredited facility. (3-16-04)

f. Permits. All permits shall be issued after applicants have met the requirements of this chapter and Section 54-4304A, Idaho Code and submitted a completed application and payment of a fee in an amount to be fixed by the Board for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the

Board. Such permits shall expire on the expiration date printed on the face of the certificate unless renewed. The failure of any person to renew a renewable permit shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee in an amount to be fixed by the Board for the initial issuance and each renewal year. (3-16-04)

i. Permits for registered polysomnographic technologists, including renewals, shall be issued for a period of not less than one (1) year nor more than five (5) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

ii. Permits for polysomnographic technicians, including renewals, shall be issued for a period of one (1) year, and shall be renewed for successive one (1) year periods, not to exceed three (3) renewals for a total period of four (4) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

iii. Temporary permits for polysomnographic trainees shall be issued for a period of not more than one (1) year, the exact period to be fixed by the Board. Such permits may be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee, for a period of one (1) year, with renewal limited to one (1) such renewal, provided however, such permits for polysomnographic trainees shall be limited to a total period of two (2) years. The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

iv. Reinstatement after failure to renew. Permits canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. (3-16-04)

v. Reapplication after failure to renew. A registered polysomnographic technologist, whose permit has been canceled for failure to renew for a period of more than two (2) years, shall be required to make application to the Board as a new applicant for a permit. A polysomnographic technician, whose permit has been canceled for failure to renew for a period of more than one (1) year, shall be required to make application to the Board as a new applicant for a permit. Temporary permits for polysomnographic trainees whose permits have been canceled for failure to renew for a period of more than six (6) months shall be required to make application to the Board as new applicants for permits. (3-16-04)

vi. Continuing education. Each individual applicant for renewal of an active permit shall, on or before the expiration date of the permit, submit satisfactory proof to the Licensure Board of successful completion of not less than twelve (12) hours of approved continuing education pertaining to the provision of polysomnographic-related respiratory care per year in addition to any other requirements for renewal as adopted by the Board. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Section 032 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. (3-16-04)

g. Conditional Permits. Any individual person who desires to provide polysomnography related respiratory care services as described in Section 54-4304A, Idaho Code, and this chapter and who meets the requirements of Subsection 032.03, as well as the necessary requirements in Subsections 032.05.g.i. through 032.05.g.iv., may make application for a conditional permit. Conditional permits shall be issued on or after January 1, 2004, as outlined in Section 54-4304A(8), Idaho Code, and shall be issued until the Board has adopted rules as may be required for the issuance of regular permits as provided in this chapter and has had an opportunity to process applications for such regular permits. (~~3-16-04~~)(____)

033. LICENSURE EXEMPTION FOR RESPIRATORY CARE PRACTITIONERS.

The Board may grant licensure exemption to a respiratory care practitioner applicant who meets the requirements set forth by Section 54-4308, Idaho Code. ~~Individuals~~ Persons requesting exempt status must provide to the Board, satisfactory proof of the existence of facts entitling the person to the exemption. Conditions for which ~~individuals~~ those persons may be granted exemptions include the following: (~~3-16-04~~)(____)

01. Pulmonary Function Technologists. Certified or registered pulmonary function technologists who carry out only those professional duties and function for which they have been specifically trained. (2-23-94)

02. Respiratory Therapy Students. ~~Individuals~~ Persons actively attending a full-time supervised course of study in an approved educational program leading to a degree or certificate in respiratory care. This exemption shall cease to exist if the ~~individual~~ person fails to attend the approved course of study for a period of time in excess of one-hundred twenty (120) consecutive calendar days and immediately upon receipt of the degree or certificate for which such person pursued the course of study. The practice or provision of respiratory care by such ~~individuals~~ persons must be supervised by a respiratory care practitioner or licensed physician. (~~2-23-94~~)()

03. Consulting and Training. For purposes of continuing education, consulting, or training for a period not to exceed thirty (30) days in a calendar year, provided that the ~~individual~~ person meets the requirements in Section 54-4308(1)(e), Idaho Code. The practice or provision of respiratory care by such ~~individuals~~ persons must be supervised by a respiratory care practitioner or licensed physician. (~~2-23-94~~)()

034. LICENSE EXPIRATION AND RENEWAL.

All licenses shall be issued for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board and shall become invalid on the expiration date printed on the face of the certificate of the license unless renewed. The failure of any person to renew his renewable license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee for each renewal year of a license. The Board may, in its discretion, prorate the application fees charged in conjunction with an application for initial licensure if such license shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code.

(4-11-06)

01. Renewal. Each license shall be renewed by submitting a completed request for renewal form accompanied by payment of the renewal fee to the Board and documentation that the applicant holds a current certification as a Certified Respiratory Therapist (CRT) or is currently registered as a Registered Respiratory Therapist (RRT) or is currently registered as a registered polysomnographic technologist by the Board of Registered Polysomnographic Technologists. Licenses not renewed by the expiration date shall be canceled on the expiration date. (~~3-16-04~~)()

02. Reinstatement. Licenses canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. (3-16-04)

03. Reapplication. A person whose license has been canceled for a period of more than five (5) years, shall be required to make application to the Board as a new applicant for licensure. (2-23-94)

04. Continuing Education. Prior to renewal each applicant for renewal, reinstatement or reapplication, shall submit evidence of successfully completing no less than twelve (12) clock hours per year of continuing education acceptable to the Board. Continuing education must be germane to the practice or performance of respiratory care. Appropriate continuing professional education activities include but are not limited to, the following: (4-11-06)

a. Attending or presenting at conferences, seminars or inservice programs. (2-23-94)

b. Formal course work in Respiratory Therapy related subjects. (2-23-94)

035. DENIAL OR REFUSAL TO RENEW LICENSE OR PERMIT OR SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

01. Discipline. A new or renewal application may be denied, and every person licensed or issued a permit pursuant to Title 54, Chapter 43, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-4312, Idaho Code; the Administrative Procedures Act, and IDAPA 22.01.07, "Rules of Practice and Procedure in Contested Cases of the Board of Medicine." (3-16-04)

02. Impose Sanctions. The Board, upon recommendation of the Licensing Board, may refuse to issue a license or permit, or to renew a license, or permit, or may suspend or revoke a license or permit, or may impose

probationary conditions if the holder of a license or permit or applicant for license or permit has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to: (3-16-04)

- a. Obtaining any license or permit by means of fraud, misrepresentation or concealment of material facts; (3-16-04)
- b. Being guilty of unprofessional conduct as defined by the rules of the Board, or violating the code of ethics adopted and published by the Board, a copy of which is attached to these rules; (2-23-94)
- c. Being convicted of a crime which would have a direct and adverse bearing on the *individual's* person's ability to practice or perform respiratory care or polysomnography related respiratory care competently; ~~(3-16-04)~~(____)
- d. The unauthorized practice of medicine; (4-28-93)
- e. Violating any provisions of this chapter or any of the rules promulgated by the Board under the authority of this chapter; (4-28-93)
- f. Being found mentally incompetent by a court of competent jurisdiction or unfit by the Board to provide respiratory care or polysomnography related respiratory care; (3-16-04)
- g. Providing respiratory care or polysomnography related respiratory care which fails to meet the standard of health care provided by other qualified respiratory therapists or respiratory therapy technicians or registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees in the same community or similar communities; (3-16-04)
- h. Using any controlled substance or alcohol to the extent that use impairs the ability to practice respiratory care or polysomnography related respiratory care at an acceptable level of competency; (3-16-04)
- i. Employing, directing or supervising the unlicensed practice of respiratory care or those not holding a permit to provide polysomnography related respiratory care; (3-16-04)
- j. Practicing in an area of respiratory care or polysomnography related respiratory care for which the *individual* person is not trained; ~~(3-16-04)~~(____)
- k. Failure to supervise the activities of *individuals* persons who hold exemptions, conditional or temporary permits; ~~(3-16-04)~~(____)
- l. Delegation to an unqualified person of any services which require the skill, knowledge, and judgment of a respiratory care or polysomnography related respiratory care practitioner; (3-16-04)
- m. In the case of practice as *an individual entitled to* person eligible for exemption, conditional or temporary permit, the practice of respiratory care or polysomnography related respiratory care other than under the supervision of a respiratory care or appropriate polysomnography related respiratory care practitioner or licensed physician, as may be required by law; ~~(3-16-04)~~(____)
- n. Misrepresenting educational or experience attainments. (3-16-04)
- o. Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's or permittee's provision of respiratory care or polysomnography related respiratory care; (3-16-04)
 - i. Consent of the patient shall not be a defense; (3-16-04)
 - ii. Subsection 035.02.o. shall not apply to sexual contact between a respiratory care or polysomnography related respiratory care practitioner and the spouse or a person in a domestic relationship who is

also a patient; (3-16-04)

iii. A former patient includes a person for whom the respiratory care or polysomnography related respiratory care practitioner has provided respiratory care or polysomnography related respiratory care within the last twelve (12) months; (3-16-04)

iv. Sexual or romantic relationship with a former patient beyond the period of time set forth herein may also be a violation if the respiratory care or polysomnography related respiratory care practitioner uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient; (3-16-04)

p. Aiding or abetting a person not licensed, registered or permitted in this state or exempt from such licensure, registration or permitting, who directly or indirectly performs activities requiring a license, registration or permit; (3-16-04)

q. Failing to report to the Board any known act or omission of a licensee, permittee, applicant, or any other person, that violates any provision of this chapter; (3-16-04)

r. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; or (3-16-04)

s. Failing to maintain patient confidentiality unless otherwise required or permitted by law. (3-16-04)

036. -- 045. (RESERVED).

046. FEES.

Actual fees shall be set to reflect real costs of Board administration. Fees authorized under this chapter shall be used solely to carry out the purposes of this chapter including the provisions of Section 54-4317, Idaho Code. Each applicant shall be responsible for the payment of any fee charged by the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board. (3-16-04)

01. Licensure and Permit Fees for Respiratory Care Practitioners. (3-16-04)

a. Initial Licensure Fee. The fee for initial licensure, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ~~ninety one hundred eighty~~ dollars (\$~~9180~~). (~~3-16-04~~)(____)

b. Reinstatement Fee. The reinstatement fee for a lapsed license shall be the renewal for each year not licensed plus a fee of ~~thirty-five~~ fifty dollars (\$~~350~~). (~~3-16-04~~)(____)

c. Inactive Fee - Reactivate Fee. The fee for converting an active license to an inactive license shall be no more than ~~fifty one hundred~~ dollars (\$~~5100~~). An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than ~~fifty one hundred~~ dollars (\$~~5100~~) to the Board. (~~3-16-04~~)(____)

d. Renewal Fee. The renewal fee shall be no more than ~~seventy one hundred forty~~ dollars (\$~~7140~~). (~~3-16-04~~)(____)

e. Temporary Permit Fee. The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ~~ninety one hundred eighty~~ dollars (\$~~9180~~). (~~4-11-06~~)(____)

02. Permit Fees for Polysomnography Related Respiratory Care Practitioners. (3-16-04)

a. Initial Permit Fee. The fee for an initial permit for a registered polysomnographic technologist or a polysomnographic technician shall be no more than ~~ninety one hundred eighty~~ dollars (\$~~9180~~). The fee for an initial permit for a polysomnographic trainee shall be no more than ~~forty-five~~ one hundred dollars (\$~~45100~~).

~~(3-16-04)~~()

b. Reinstatement Fee. The reinstatement fee for a lapsed permit for a registered polysomnographic technologists or a polysomnographic technician shall be the renewal fee for each year not holding an active permit plus a fee of ~~thirty-five~~ fifty dollars (\$~~350~~).

~~(3-16-04)~~()

c. Renewal Fee. The renewal fee for an active permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ~~seventy one hundred forty~~ dollars (\$~~7140~~). The renewal fee for an active permit for a polysomnographic trainee shall be no more than ~~thirty-five~~ seventy dollars (\$~~3570~~).

~~(3-16-04)~~()

d. Temporary Permit Fee. The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, for a registered polysomnographic technologist and polysomnographic technician shall be no more than ~~ninety one hundred eighty~~ dollars (\$~~9180~~). The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, for a polysomnographic trainee shall be no more than ~~forty-five~~ ninety dollars (\$~~4590~~).

~~(4-11-06)~~()

e. Conditional Permit Fee. The fee for a conditional permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ~~ninety one hundred eighty~~ dollars (\$~~9180~~). The fee for a conditional permit for a polysomnographic trainee shall be no more than ~~forty-five~~ ninety dollars (\$~~4590~~). Conditional permits will issue on or after January 1, 2004, and will issue until issuance of regular permits as provided in this chapter.

~~(3-16-04)~~()

03. Dual Licensure/Permit Fees for Practitioners of Respiratory and Polysomnography Related Respiratory Care.

(3-16-04)

a. Initial Licensure/Permit Fee. The fee for initial issuance of a dual license/permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ~~ninety one hundred eighty~~ dollars (\$~~9180~~). A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.

~~(3-16-04)~~()

b. Reinstatement Fee. The reinstatement fee for a dual license/permit that has lapsed shall be the renewal for each year not dually licensed/permitted plus a fee of ~~thirty-five~~ fifty dollars (\$~~350~~).

~~(3-16-04)~~()

c. Renewal Fee. The renewal fee shall be no more than ~~seventy one hundred forty~~ dollars (\$~~7140~~). Renewal shall be required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially shall not have been obtained at the same time.

~~(3-16-04)~~()

04. General Fee Information. (4-28-93)

a. Necessary fees shall accompany applications. (4-28-93)

b. Fees shall not be refundable. (4-28-93)

c. In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (4-28-93)

d. The Board may, in its discretion, provide for the proration of fees charged in conjunction with the initial application for a license or temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

~~047. CODE OF ETHICS:~~

~~The licensure board has adopted the Code of Ethics of the American Association for Respiratory Care, as amended in 1985.~~

~~(2-23-94)~~

~~048~~. -- 050. (RESERVED).

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-0702

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 23, 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 Sections 54-1404 and 54-1406A, 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 October 17, 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:

The proposed changes are needed to confer a benefit to licensed nurses as an alternative to disciplinary proceedings. The proposed rules will clarify that nurses who have violated the terms of the program for recovering nurses will have their limited licenses summarily suspended, but in appropriate cases a nurse can remain in the program without being referred to the Board of Nursing for disciplinary proceedings.

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

The proposed changes are needed to confer a benefit to licensed nurses participating in the program for recovering nurses as an alternative to disciplinary proceedings.

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 utilized in view of the need for a temporary rule. This temporary rule is necessary in order to convey a benefit. The benefit is the creation of additional options within the program for recovering nurses and it is necessary to provide these alternatives to nurses who are current participants in the program.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sandra Evans, MAEd., R.N., Executive Director, (208) 334-3110 x26.

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 October 24, 2007.

DATED this 14th day of August, 2007.

Sandra Evans, MAEd., R.N.
Executive Director
Idaho Board of Nursing

280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720, Boise, ID 83720-0061
Phone: (208) 334-3110 x26 / Facsimile: (208) 334-3262

THE FOLLOWING IS THE TEXT OF DOCKET NO. 23-0101-0702

132. LIMITED LICENSES.

Limited licenses may be issued to qualified individuals in four (4) categories: post-discipline, non-practicing status, restricted status, and impairment-related disability. Failure to comply with the terms and conditions of a limited license will be cause for summary suspension. (3-30-07)

01. Following Disciplinary Action. (3-30-07)

a. After evaluation of an application for licensure reinstatement, the Board may issue a limited license to a nurse whose license has been revoked. (3-15-02)

b. The Board shall specify the conditions of issuance of the limited license in writing. The conditions may be stated on the license. (3-15-02)

02. Non-Practicing Status. (3-15-02)

a. Individuals who are prevented from engaging in the active practice of nursing may be issued a limited license. (3-15-02)

b. The Board shall specify that the license being issued does not entitle the licensee to engage in the active practice of nursing. The non-practicing status shall be noted on the license. (3-15-02)

c. The non-practicing limitation may be removed by the Board following receipt and evaluation of evidence satisfactory to the Board confirming that the licensee's physical or mental health status no longer prevents the individual from engaging in the active practice of nursing. (3-15-02)

03. Restricted Status. (3-15-02)

a. Individuals whose disabilities restrict or inhibit their ability to provide a full range of nursing services may be issued a limited license. (3-15-02)

b. In order to determine the appropriate limitations, the Board may evaluate statements from qualified professional persons who have personal knowledge of the applicant or licensee. The Board may also evaluate job descriptions and statements from potential employers and consider input from the applicant for the limited license. (3-15-02)

c. The Board shall specify the conditions of issuance of the limited license in writing. The conditions may be stated on the license. The conditions may include, but are not limited to: (3-15-02)

i. Notifying the Board of changes in employment status. (3-15-02)

ii. Submission of regular reports by the employer or by such other entities or individuals as the Board may desire. (3-15-02)

iii. Meeting with Board representatives. (3-15-02)

iv. Specific parameters of practice, excluding the performance of specific nursing functions. (3-15-02)

d. The conditions of limited practice may be removed by the Board following receipt and evaluation of satisfactory evidence confirming that the health status of the licensee no longer restricts or inhibits the person's ability to provide a full range of nursing services. (3-15-02)

04. Disability Due to Alcohol or Drug Use or Emotional or Mental Impairment. (3-15-02)

a. Individuals disabled due to alcohol or drug use or to emotional or mental impairment may qualify for issuance of a limited license as an alternative to discipline. (3-15-02)

b. The executive director may issue a limited license for a period not to exceed five (5) years to an individual who voluntarily surrenders his license by reason of a disability relating to alcohol or drug use or relating to emotional or mental impairment and who: (3-15-02)

i. Holds a current license to practice in Idaho as a professional or practical nurse or is otherwise eligible and is in the process of applying for licensure; and (3-30-07)

ii. Abused drugs and/or alcohol or demonstrated mental disability such that ability to safely practice is/may be impaired; and (3-15-02)

iii. Sign a written statement admitting to all facts which may constitute grounds for disciplinary action or demonstrate impairment of the safe practice of nursing, and waiving the right to a hearing and all other rights to due process in a contested case under the Idaho Administrative Procedures Act and the Nursing Practice Act; and (3-15-02)

iv. Submit reliable evidence, satisfactory to the executive director, that he is competent to safely practice nursing. (3-15-02)

c. If required, the applicant shall satisfactorily complete a treatment program accepted by the Board. (3-30-07)

d. The applicant must agree to participation in the Board's monitoring program to include: (3-15-02)

i. Evaluation of disability; (5-21-89)

ii. Approval of treatment program regimen; (5-21-89)

iii. Monitoring of progress; (5-21-89)

iv. Determination of when return to the workplace will be allowed. (7-1-96)

e. Admission to the Program for Recovering Nurses and/or issuance of a limited license may be denied for any reason including, but not limited to the following: (3-15-02)

i. The applicant diverted controlled substances for other than self administration; or (3-15-02)

ii. The applicant creates too great a safety risk; or (3-15-02)

iii. The applicant has been terminated from this, or any other, alternative program for non-compliance. (3-15-02)

f. Upon satisfactory compliance with all of the terms of the limited license, and provided that the licensee demonstrates that he is qualified and competent to practice nursing, the executive director shall reinstate the renewable nursing license voluntarily surrendered. (3-30-07)

05. Compliance Required. Limited licensure shall be conditioned upon the individual's prompt and faithful compliance with the following: (3-30-07)

a. Satisfactory progress in any required continuing treatment or rehabilitation program. (3-15-02)

b. Regular and prompt notification to the Board of changes in name and address of self or any employer. (7-1-96)

- c.** Obtaining of performance evaluations prepared by the employer to be submitted at specified intervals and at any time upon request. (7-1-96)
- d.** Continuing participation in, and compliance with all recommendations and requirements of, the approved treatment or rehabilitation program, and obtaining of reports of progress submitted by the person directing the treatment or rehabilitation program at specified intervals and at any time upon request. (7-1-96)
- e.** Submission of written self-evaluations and personal progress reports at specified intervals and at any time upon request. (7-1-93)
- f.** Submission of reports of supervised random alcohol/drug screens at specified intervals and at any time upon request. Participant is responsible for reporting as directed, submitting a sufficient quantity of sample to be tested, and payment for the screening. (7-1-96)
- g.** Meeting with the Board's professional staff at any time upon request. (7-1-93)
- h.** Working only in approved practice settings. (7-1-96)
- i.** Authorization by licensee of the release of applicable records pertaining to assessment, diagnostic evaluation, treatment recommendations, treatment and progress, performance evaluations, counseling, random chemical screens, and after-care at periodic intervals as requested. (7-1-93)
- j.** Obedience to all laws pertaining to nursing practice, all nursing standards, and all standards, policies and procedures of licensee's employer(s) relating to any of the admitted misconduct or facts as set out in the written statement signed by licensee, or relating to the providing of safe, competent or proper nursing service. (7-1-93)
- k.** Compliance with other specific terms and conditions as may be required by the executive director. (3-15-02)
- 06. Summary Suspension - Lack of Compliance.** (3-30-07)
- a.** Summary Suspension. Any failure to comply with the terms and conditions of a limited license shall be deemed to be an immediate threat to the health, safety, and welfare of the public and the executive director shall, upon receiving evidence of any such failure, summarily suspend the limited license. (3-30-07)
- i.** Summary suspension of a limited license may occur if, during participation in the program, information is received which, after investigation, indicates the individual may have violated a provision of the law or Board Rules governing the practice of nursing. (3-30-07)
- ii.** Upon summary suspension of a limited license, the executive director shall provide prompt written notice to the licensee stating the reason for the suspension, setting forth the evidence relied upon and notifying the licensee of his right to a hearing upon request at the earliest possible date in accordance with Section 54-1413(3)(a), Idaho Code. (3-30-07)
- b.** Right to Hearing. An individual whose limited license has been summarily suspended by the executive director may request a hearing regarding the suspension by certified letter addressed to the Board. If the individual fails to request a hearing within twenty (20) days after service of the notice of suspension by the executive director, ~~or after the right to a hearing is waived. If one a hearing is timely requested, after the hearing~~ the Board shall enter an order affirming or rejecting summary suspension of the limited license and enter such further orders revoking, suspending, or otherwise disciplining the nursing license as may be necessary. The above provisions do not limit or restrict the right of Board staff to bring any summary suspension order before the Board for further proceedings, even if the licensee has not requested a hearing. (~~3-30-07~~)(7-23-07)T
- c.** Other Orders. The Board may, for good cause, stay any order of the executive director or may modify the terms and conditions of a limited license as deemed appropriate to regulate, monitor or supervise the practice of any licensee. (3-30-07)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS
DOCKET NO. 24-0301-0701
NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 54-707, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating the proposed rulemaking:

The scope of the rulemaking was revised and will the rulemaking will be amended and resubmitted for publication in the Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Cherie Simpson at (208) 334-3233.

DATED this 15th day of August, 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 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES
24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS
DOCKET NO. 24-0301-0702

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-707, 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 October 17, 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:

Add a scope of practice for clarification, clarify endorsement requirements to consider various timeframes for licensure in another state, increase continuing education requirement to eighteen hours effective January, 2009 to bring the standards up to a national level and allow six hours of the continuing education through distance learning and home study.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposals were distributed to members of the association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0301-0702

011. -- 0919. (RESERVED).

020. SCOPE OF PRACTICE (RULE 20).

Clinical nutritional methods as referenced in Section 54-704, Idaho Code, include, but are not limited to the clinical use, administration, recommendation, compounding, prescribing, selling, and distributing vitamins, minerals, botanical medicine, herbals, homeopathic, phytonutrients, antioxidants, enzymes, and glandular extracts, durable and non-durable medical goods and devices in all their forms. (____)

022. -- 099. (RESERVED).

100. APPLICATIONS (RULE 100).

01. Application. Applications on forms furnished by the Bureau of Occupational Licenses must be accompanied by an unmounted passport photograph taken within the twelve (12) months preceding the date of application. (3-15-02)

02. Qualifications. (7-1-93)

a. New applicants will meet the following requirements: (7-1-93)

i. National Boards Parts I, II, III, and IV. (7-1-99)

ii. Graduation from a CCE approved college or university. (7-1-93)

iii. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians." (7-1-99)

b. Endorsement applicants will meet the following requirements: (7-1-93)

i. Successful passage of the National Boards Parts ~~I, II, III~~ which were in effect at the time of graduation from chiropractic college and physiotherapy. (~~7-1-93~~)(____)

ii. If licensed prior to January, 1980, CCE approved college or university not required. If licensed after January, 1980, applicant must have graduated from a CCE approved college or university. (7-1-93)

iii. Five (5) years of consecutive ~~experience~~ practice immediately prior to application ~~and a valid, unrevoked, unsuspended license to practice chiropractic~~ in another state without discipline. (~~7-1-93~~)(____)

iv. National Board Special Purposes Examination for Chiropractors (SPEC). (7-1-99)

v. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24.03.01, "Rules of the State Board of Chiropractic Physicians." (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

300. RENEWAL REQUIREMENT (RULE 300).

01. Active Status. Each renewal application must be accompanied by: (7-1-93)

a. The established fee and; (7-1-93)

b. Certification of having attended and completed a minimum of twelve (12) hours of scientific clinics, forums, or chiropractic study within the previous twelve (12) months, as approved by the Idaho Board of Chiropractic Physicians. Effective January 1, 2009, certification of having attended and completed a minimum of eighteen (18) hours of scientific clinics, forums, or chiropractic study within the previous twelve (12) months, as approved by the board. (7-1-93)(____)

02. Inactive Status. Each application for an Inactive status license must be accompanied by: (3-15-02)

a. The established fee; and (3-15-02)

b. A written request to change a current active license to an inactive license. (3-15-02)

03. Waiving Continued Education Requirements. All continued education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. Inactive license renewal notices and licenses will be marked "Inactive." When the licensee desires active status, he must show acceptable fulfillment of continuing educational requirements for the current year and submit a fee equivalent to the difference between the inactive and active renewal fee. The continuing educational requirement and the fees will not be prorated for a partial year. (3-15-02)

301. -- 349. (RESERVED).

350. CONTINUING EDUCATION (RULE 350).

In order to further protect the public health and to facilitate the administration of the Chiropractic Act, the board has formulated the following rules: (7-1-93)

01. Subject Material. The subject material of the continuing education requirement shall be germane to the practice of chiropractic and either; (3-15-02)

a. Sponsored by an approved school of chiropractic; or (3-15-02)

b. Otherwise approved by the board. (3-15-02)

c. "Germane to the practice of chiropractic" shall be limited to Section 54-704(1), Idaho Code. (3-15-02)

02. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the applicant. This verification shall be maintained by the licensee and provided to the Board upon the request of the Board or its agent. (3-15-02)

03. Distance Learning and Home Study. The board ~~shall not may~~ approve ~~any~~ a course of study for continuing education credit that does not include the actual physical attendance of the applicant in a face-to-face setting with the course instructor. ~~Correspondence~~ Distance Learning or Home Study courses shall ~~not~~ be eligible for continuing education credits if sponsored by an approved school of chiropractic or upon approval by the board. Licensee shall not accumulate more than six (6) continuing education hours per renewal period from distance learning or home study. (3-15-02)(____)

04. Requests for Approval. All requests for approval or pre-approval of educational programs must be made to the board in writing, and must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, the number of continuing education credit hours requested, and a statement of how the course is believed to be pertinent to the practice of chiropractic. (3-15-02)

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0701

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(s) 54-831, 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 October 17, 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:

Allow degrees to be considered as equivalency in lieu of high school education, define examination, change references to the examination to allow for a third party examination administrator including deadline, model requirements, eligibility for reexamination, correct limitation on clinical services from hour requirement to percentage to comply with statute.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are necessary to allow third party examination administrator and clean up language to comply with statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0401-0701

010. DEFINITIONS (RULE 10).

These rules expressly adopt all definitions set forth in Section 54-802, Idaho Code, in addition to the following:

- (3-30-01)
- 01. Gender.** Any reference to a gender shall mean both masculine and feminine. (7-1-97)
- 02. Board.** The Idaho Board of Cosmetology as prescribed in Section 54-802, Idaho Code. (7-1-97)
- 03. Bureau.** The Bureau of Occupational Licenses, as prescribed in Section 54-828 and Section 67-2602, Idaho Code. (3-8-02)
- 04. Chief.** The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-97)
- 05. Current License.** An unexpired license in good standing. (7-1-97)
- 06. Establishment.** A licensed cosmetological establishment. (7-1-97)
- 07. Record of Instruction.** The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, the instructor. (3-30-01)
- 08. Certificate of Graduation.** A signed, notarized statement from a school or, in the case of an apprentice, the instructor, which indicates that the student has fulfilled all requirements of that school or apprenticeship and is eligible for examination. (7-1-97)
- 09. Rules.** The rules of the Board. (7-1-97)
- 10. School.** A licensed school of cosmetology. (7-1-97)
- 11. School of Electrology.** A licensed school of cosmetology approved to teach electrology. (3-30-01)
- 12. Endorsement Certification.** In accordance with Section 54-812, Idaho Code. (7-1-97)
- 13. Hospital Grade.** Hospital grade means a disinfecting agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant or any other equivalent agent that effectively frees instruments from infectious or otherwise harmful microorganisms. Such agents must be used in accordance with the manufacturer's instructions. (3-19-07)
- 14. First-Aid Kit.** First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze, which may be used for cleaning and protecting blood spills and other minor emergency traumas of the human body. (3-30-01)
- 15. Patron.** Patron means any person who receives the services of anyone licensed or otherwise regulated by the provisions of Chapter 8, Title 54, Idaho Code. (3-19-07)
- 16. Examination.** The examination approved by the board is the National Interstate Council of State Boards of Cosmetology examination. The examination shall consist of practical examination, theory examination and jurisprudence examination. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATIONS (RULE 200).

01. Application for License by Examination. Application for license by examination shall be made on forms furnished by the Board. (3-8-02)

a. Applicant. Each applicant for licensure by examination shall be required to submit to the Board an application and the required fees. (3-8-02)

b. Records. The school or apprenticeship instructor shall submit the following directly to the Board: (3-8-02)

i. The record of instruction; (3-8-02)

ii. A signed and notarized certificate of graduation; (3-8-02)

iii. Proof of the required high school education (pursuant to Section 54-805, Idaho Code) or equivalent; and (3-8-02)

iv. Acceptable verification of applicants age upon registration as a student or apprentice. (3-8-02)

02. Applications Must Be Complete to Be Accepted. Applications shall not be considered complete and accepted until all required information, documents, and fees are received by the Board. (3-8-02)

03. Examination. Proof of successful passage of a practical and written examination as approved by the Board. ()

~~**034. Out of State Applicants.**~~ (3-8-02)

a. Applicants not completing their instruction in Idaho and currently licensed in another state, territory, possession or country, must also document their other licensure and provide verification of practical experience, in addition to the required application and fees. (3-8-02)

b. Applicants not currently licensed in another state, territory, possession or country must provide certified documentation of all instruction received. Records of instruction must be received by the Board directly from the applicable regulatory agency or the facility that provided the instruction. (3-8-02)

~~**04. Deadline Date for Filing.** *An application must be fully completed, in accordance with Rule 200, before an applicant is eligible for examination. The application and fees must be received by the Board at least thirty (30) days prior to the date of examination. All other required records must be received by the Board at least fourteen (14) days prior to the date of examination. Those applicants whose applications or fees or records are not received in accordance with the deadlines will be scheduled for the next subsequent examination. Those applicants who fail any portion of the examination on their first attempt may submit an application with the required fee for re-examination, and if said application and fee is received by the board office prior to the next scheduled examination, the thirty (30) day application deadline shall be waived.* (3-8-02)~~

201. -- 249. (RESERVED).

250. ESTABLISHING EQUIVALENCY IN LIEU OF THE REQUIRED HIGH SCHOOL EDUCATION (RULE 250).

The Board will accept the following tests and degrees as being equivalent in lieu of the required high school education (pursuant to Section 54-805, Idaho Code). (~~3-30-01~~)()

01. GED Test. The General Educational Development (G.E.D.) Tests approved by the Department of Education, when an applicant receives an average cutting score of not less than forty-five (45), with no category below a cutting score of forty (40). (3-30-01)

02. Equivalent Test. Any test approved by the Department of Education to establish education equivalency shall be approved by the Board when an applicant receives a score approved by the Department of Education as meeting the equivalency requirement. (5-3-03)

- 03. Degrees.** An associates, bachelors, or graduate degree from an accredited college or university. ()

(BREAK IN CONTINUITY OF SECTIONS)

400. REQUIREMENTS FOR LICENSURE BY EXAMINATION - GENERAL. (RULE 400).

01. Requirements. Applicants for license by examination must complete an application (Refer to Rule 200) and file it with the Board, along with proof of successfully passing the approved examination with a score of at least seventy-five percent (75%) and a completed certificate of graduation submitted to the Board by the school. (7-1-97)()

02. If Applicant Is From Another State. If applicant is from another state, territory, possession, or country, and is ineligible for license by endorsement, proof of having a current license in good standing and instruction equivalent to the foregoing requirements must be submitted to the Board (Refer to Rule 200). (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

450. EXAMINATIONS - GENERAL (RULE 450).

Examination for licensure shall consist of both a practical and written examination for each of those disciplines included in Chapter 8, Title 54, Idaho Code. (5-3-03)

01. Dates and Places. (7-1-97)

a. Examinations for licensure are to be held at the discretion of the Board. (7-1-97)

b. The dates and places of examination will be published annually. (7-1-97)

02. Written Examination. The written examination consists of two (2) parts: theory and Idaho jurisprudence. (7-1-97)

a. The Idaho jurisprudence examination will be a comprehensive written examination that will include Chapter 8, Title 54, Idaho Code and these rules. (5-3-03)

b. The theory examination will be the national examination provided by the National Interstate Council of State Boards of Cosmetology (NIC). (5-3-03)

~~**i.** The theory examination for cosmetology will include all phases of the art of cosmetology, hair dressing, manicuring and pedicuring, facial massage, and sanitation. (5-3-03)~~

~~**ii.** The theory examination for electrology will cover all phases of the art of electrology and sanitation. (5-3-03)~~

~~**iii.** The theory examination for esthetics will cover all phases of the art of skin care and sanitation. (5-3-03)~~

~~**iv.** The theory examination for nail technology will cover all phases of the art of manicuring, artificial nails, and sanitation. (5-3-03)~~

~~**v.** The theory examination for haircutter will cover all phases of the art of haircutting and sanitation.~~

~~(3-19-07)~~

~~vi. The theory examination for an instructor will cover all phases of the applicant's ability to teach cosmetology, nail technology, esthetics or electrology, and sanitation. (5-3-03)~~

03. The Practical Examination. The practical examination will be the NIC examination specific to the discipline for which licensure is sought. (5-3-03)

~~a. Oral Test. As authorized by Section 54-810, Idaho Code, the examiners may direct questions to individual examinees during the course of the practical examination. (7-1-97)~~

~~b. Supplies. Each applicant is required to bring adequate supplies and materials for the practical examination. Detailed information will be provided upon notification of acceptance for examination. (7-1-97)~~

04. Failure to Pass Examination. (7-1-99)

a. The practical examination is failed when an applicant obtains an average score below seventy-five percent (75%). Reexamination shall consist of the entire examination. (7-1-98)

b. Written examination is failed when the applicant obtains a score of below seventy-five percent (75%) on the national theory examination or the Idaho jurisprudence examination. Reexamination shall consist of the written entire examination ~~on the portion or portions failed.~~ (7-1-97)()

05. Eligibility for Reexamination. A new application must be filed with the Board. The prescribed fee must accompany said application. (7-1-97)

~~a. Additional instruction required to qualify for the practical reexamination shall be as follows: (5-3-03)~~

~~i. An applicant failing on the first practical examination attempt and on all subsequent attempts shall complete a full review of the proper practical procedures for those service applications in the discipline for which licensure is sought as outlined in Section 54-808(6), Idaho Code. The applicant must also sign an affidavit attesting to the completion of the review. The review and affidavit shall constitute proof of required additional instruction prior to reexamination. (3-19-07)~~

~~ii. The Board may, following a review of previous examination scores, require any applicant to obtain additional instruction in a school of cosmetology. (3-19-07)~~

~~b. Additional instruction required to qualify for the written reexamination shall be as follows: (5-3-03)~~

~~i. An applicant failing on the first written examination attempt and on all subsequent attempts in either the theory or Idaho jurisprudence examination shall complete a full review as applicable to the area or areas of failure, of either the proper theoretical procedures for the discipline and those service applications for which licensure is sought as outlined in Section 54-808(6), Idaho Code, or of the Idaho Laws and Rules governing the licensure and practice of those disciplines included in Chapter 8, Title 54, Idaho Code. The applicant must also sign an affidavit attesting to the completion of the review. The review and affidavit shall constitute proof of required additional instruction prior to the first reexamination only. (3-19-07)~~

~~ii. The Board may, following a review of previous examination scores, require any applicant to obtain additional instruction in a school of cosmetology. (3-19-07)~~

06. Termination. All application records in the bureau of applicants who have not qualified for reexamination within five (5) years of notification of failure in any examination under the Cosmetology Law will be terminated and destroyed. (7-1-97)

451. -- 47499. (RESERVED).

~~475. MODELS FOR EXAMINATION (RULE 475):~~

~~01. **Appropriate Model.** Applicants scheduled for an examination must bring an appropriate model. Models may be human or mannequin, depending upon the specific examination. If a mannequin is required, it must be treated in all respects, the same as a live model. (7-1-97)~~

~~02. **Models Must Not Be Students.** Models must not be students in any school or apprentice in any establishment, nor licensed under the Cosmetology Law. (7-1-97)~~

~~03. **Models Must Be Able to Remain Until Conclusion of the Examination.** (7-1-97)~~

~~04. **Models Cannot Be Candidates.** Models cannot be candidates for the examination who may be examined on another day. (7-1-97)~~

~~476.---478. (RESERVED):~~

~~479. MODELS FOR THE COSMETOLOGY EXAMINATION (RULE 479):~~

~~01. **Human Models.** Human models are mandatory for the facial portion of the cosmetology examination. (3-8-02)~~

~~02. **Mandatory Mannequins for Examination.** Except as set forth in Rule 479.01, mannequins and mannequin hands are mandatory for all portions of the cosmetology examination and must be treated in all respects, the same as a live model. (3-8-02)~~

~~480.---482. (RESERVED):~~

~~483. **MODELS FOR THE ELECTROLOGY EXAMINATION (RULE 483).** Hair removal will be demonstrated directly on the Examiners. (7-1-99)~~

~~484.---486. (RESERVED):~~

~~487. MODELS FOR THE ESTHETICS EXAMINATION (RULE 487):~~

~~01. **Human Models for Skin Care.** Human models will be used for the skin care demonstration. (7-1-97)~~

~~02. **Human Models.** Human models must be people to whom makeup may be applied. (7-1-97)~~

~~488.---490. (RESERVED):~~

~~491. MODELS FOR THE NAIL TECHNOLOGY EXAMINATION (RULE 491):~~

~~01. **Mannequin Hands for Manicure.** Mannequin hands are mandatory for all portions of the nail technology examination and must be treated in all respects, the same as a live model. (3-20-04)~~

~~492.---499. (RESERVED):~~

(BREAK IN CONTINUITY OF SECTIONS)

550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY (RULE 550).

Section 54-808, Idaho Code, provides for the teaching of electrology in cosmetology schools. (3-20-04)

01. Board Approval. The Board may approve a school to teach electrology who makes application on forms provided by the Board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the Board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach electrology. (7-1-99)

02. Minimum Square Footage. Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. (7-1-97)

03. Required Equipment. Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. (7-1-97)

- a. Work stations equal to seventy-five percent (75%) of total enrollment. (7-1-97)
- b. Two (2) brands of machines (one (1) with three (3) method capability) Galvanic, Thermolysis, and Blend. (7-1-97)
- c. Two (2) treatment tables and adjustable technician chairs. (7-1-97)
- d. Two (2) swing arm lamps with magnifying lens. (7-1-97)
- e. Two (2) magnifying glasses. (7-1-97)
- f. Tweezers. (7-1-97)
- g. One (1) basin with approved water source. (7-1-97)
- h. Necessary sanitation equipment for implements. (7-1-97)
- i. Closed storage cabinet. (7-1-97)

04. Kit. Each student to be issued a basic kit containing: two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clippies, one (1) sharps container. (7-1-99)

05. Electrologist Instructor/Student Ratio. Schools have at least one (1) licensed electrologist instructor for every six (6) students or portion thereof, being trained therein. (7-1-99)

06. Records Required. Records required of cosmetology schools approved to teach electrology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

07. Record of Instruction. A record of all operations completed by each student shall be maintained and include the following: (3-30-01)

- a. Permanent Removal of Hair (Electrology). (7-1-97)
 - i. Bacteriology, sanitation and sterilization, safety precautions, anatomy, and physiology. (3-30-01)
 - ii. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment. (3-30-01)
 - iii. Electrolysis which shall include the use and study of galvanic current. (3-30-01)
 - iv. Thermolysis which shall include the use and study of high frequency current automatic and manual. (3-30-01)

v. A combination of high frequency and galvanic currents. (3-30-01)

vi. The study and cause of hypertrichosis. (3-30-01)

b. Students may not render any clinical services to patrons until completing at least ~~eighty (80)~~ five percent (5%) of the required hours of instruction in electrology. ~~(7-1-99)~~()

551. -- 559. (RESERVED).

560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (RULE 560).

Section 54-808, Idaho Code, provides for the teaching of esthetics in cosmetology schools. (3-20-04)

01. Board Approval. The Board may approve a school to teach esthetics who makes application on forms provided by the Board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the Board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach esthetics. (7-1-97)

02. Records Required. Records required of schools teaching esthetics shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

a. Students may not render any clinical services to patrons until completing at least ~~sixty (60)~~ five percent (5%) of the required hours of instruction in esthetics. ~~(7-1-97)~~()

b. The recorded operations completed by each student shall be maintained and include the following: (3-30-01)

i. Massage and Manipulation application of lotions, creams, etc. (3-30-01)

ii. Cosmetics. (3-30-01)

iii. Machine Application: use of mechanical or electrical equipment. (3-30-01)

iv. Bacteriology, Sanitation and sterilization, safety precautions, anatomy and physiology. (3-30-01)

v. Eyebrow arch and hair removal. (3-30-01)

561. -- 569. (RESERVED).

570. RULES FOR COSMETOLOGY SCHOOLS TEACHING NAIL TECHNOLOGY (RULE 570).

Section 54-808, Idaho Code, provides for the teaching of nail technology in cosmetology schools. (3-20-04)

01. Board Approval. The Board may approve a school to teach nail technology who makes application on forms provided by the Board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the Board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach nail technology. (7-1-97)

02. Records Required. (7-1-97)

a. Records required of schools teaching nail technology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

b. Students may not render any clinical services to patrons until the student has completed at least ~~forty (40)~~ five percent (5%) of the required hours of instruction. All work done on patrons must be completed by students and supervised by instructors. ~~(7-1-97)~~()

- 03. Record of Training.** A record of operations completed by each student shall be maintained of the following: (3-30-01)
- a.** Form nails; (3-30-01)
 - b.** Finished tips; (3-30-01)
 - c.** Wraps and mends; and (3-30-01)
 - d.** Basic manicures and pedicures. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

700. COSMETOLOGY -- ELECTROLOGY, ESTHETICS, AND NAIL TECHNOLOGY APPRENTICE INSTRUCTION (RULE 700).

Sections 54-805(6)(c) and 54-807, Idaho Code, provide for the practice of apprentices. (3-30-01)

01. Cosmetology Apprentices. There must be at least one (1) licensed cosmetology instructor and one (1) licensed cosmetologist in any cosmetological establishment at all times for each apprentice who is being trained therein. (7-1-99)

- a.** One (1) instructor shall train no more than three (3) currently registered apprentices. (3-8-02)
- b.** Each apprentice must also be supervised by a separate licensed cosmetologist. (3-8-02)

02. Electrology Apprentices. Apprentice instruction must be obtained under the direct personal supervision of an electrologist instructor. An electrologist instructor may train no more than one (1) apprentice at a time. (3-30-01)

03. Esthetics Apprentices. There must be at least one (1) licensed cosmetology instructor or esthetics instructor and one (1) licensed cosmetologist or licensed esthetician in any cosmetological establishment at all times for each apprentice who is being instructed therein. (3-8-02)

04. Nail Technology Apprentices. There must be at least one (1) licensed cosmetology instructor or nail technology instructor and one (1) licensed cosmetologist or nail technician in any cosmetological establishment at all times for each apprentice who is being instructed therein. (3-8-02)

05. Filing Application. Application for permit as an apprentice must be made on forms furnished by the Board. (3-30-01)

06. Application for Apprentice. The application submitted for an apprentice permit must list the names and license numbers of the licensed cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which an apprentice will serve apprenticeship. (3-30-01)

07. Prior to Beginning Instruction. Prior to beginning of instruction, the instructor for any apprenticeship must submit and have Board approval of a curriculum for the entire apprenticeship instruction. (3-30-01)

08. Application Must Be Accompanied by Proof of Meeting Educational Requirements. Applications must be accompanied by proof of having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If applicant is a high school graduate, a photostatic copy of the high school diploma may be submitted. A letter written on high school stationery, signed by an officer of the high school, may be forwarded with the application. Such letter shall indicate that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade. Do not send original high school diploma to the Board.

(7-1-97)

09. Submit Proof of Birth. Apprentices must furnish a copy of their birth certificate or other acceptable proof of birth with application. (7-1-97)

10. Apprentice Permit. An apprentice permit must be obtained from the Board before instruction as an apprentice begins. An original apprentice permit shall be dated and valid until such time as said apprentice is no longer enrolled as an apprentice in said establishment. (3-30-01)

11. Records Required. Establishments instructing apprentices must maintain records as set forth: (3-30-01)

a. For cosmetology apprentice in Subsection 500.05. (7-1-99)

b. For electrology apprentice in Subsection 550.06.a.i. (7-1-99)

c. For esthetics apprentice in Subsection 560.02. (7-1-99)

d. For nail technology apprentice in Subsection 570.02. (7-1-99)

e. Apprentices shall not be permitted to render any clinical service to patrons until said apprentice has completed at least five percent (5%) of the required hours of instruction. ()

12. Record of Instruction. Records of the operations completed by each student shall be maintained of the following: (3-8-02)

a. For cosmetology apprentice in Subsection 500.06. (7-1-97)

b. For electrology apprentice in Subsection 550.07. (3-30-01)

c. For esthetics apprentice in Subsection 560.02.c. (7-1-99)

d. For nail technology apprentice in Subsection 570.03. (7-1-99)

13. Discontinuance of a Course. When an apprentice discontinues a course of study, the salon is to complete a Record of Instruction Form with the credited hours completed by the apprentice. This form is to be submitted to the Board. If an apprentice discontinues a course of instruction and does not transfer to another salon within sixty (60) days, the apprentice permit is automatically canceled and is to be submitted to the Board along with the Record of Instruction. (3-30-01)

14. Before Resuming Instruction. Before resuming instruction, after having discontinued a course, an apprentice must file a new application and pay an additional fee. The apprentice must receive a permit before resuming instruction. (3-30-01)

15. Discontinuance of Establishment Instruction Apprentices. If a licensed establishment where apprentices are being trained discontinues to operate as a salon, records of instruction covering all apprentices obtaining instruction at the time of discontinuance or prior thereto, must be filed in the office of the Board. (3-30-01)

16. Out of State Apprenticeship. Prior to commencing a course of study in an Idaho approved establishment, an apprentice applicant is required to file with the Board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or instructor(s) in the state in which the instruction was obtained. (3-30-01)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.05.01 - RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-0701

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(s) 54-2406, 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 October 17, 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:

To define direct supervision and experience, allow consideration of a backflow examination, clarify education and experience requirements to standardize the process, add provision for continuing education courses approved by specific states, clarify reinstatement of license, and change operator-in-training from permit to license.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are to clarify processes and to benefit licensees.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0501-0701

010. DEFINITIONS (RULE 10).

01. **Board.** The Idaho Board of Drinking Water and Wastewater Professionals. (3-24-05)

- 02.** **Bureau.** The Idaho Bureau of Occupational Licenses. (3-24-05)
- 03.** **DEQ.** The Idaho Department of Environmental Quality. (3-24-05)
- 04.** **Direct Supervision.** Supervision in a way that will ensure the proper operation and maintenance of the public drinking water or public wastewater system. Supervision shall include, but not be limited to, providing written, hands-on, or oral instruction as well as verification that the instructions are being completed. The supervisor has an active on-site and on-call presence at the specific facility. ()
- 045.** **Endorsement.** Endorsement (often referred to as “reciprocity”) is that process by which a person licensed in another jurisdiction may apply for a license in Idaho. (3-24-05)
- 056.** **EPA.** The United States Environmental Protection Agency. (3-24-05)
- 07.** **Experience.** One (1) year of experience is equivalent to one thousand six hundred hours (1,600) worked. ()
- 068.** **Operating Personnel.** Operating personnel means any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public drinking water system or a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. (3-24-05)
- 079.** **Person.** A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (3-24-05)
- 0810.** **Public Drinking Water System or Public Water System.** Public drinking water system or public water system means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Every community and nontransient noncommunity water system, and each transient water system using a surface water source or ground water source directly influenced by surface water, shall be operated by a certified drinking water operator. (3-24-05)
- 0911.** **Public Wastewater System or Wastewater System.** Public wastewater system or wastewater system means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a nonprofit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, nonmechanical septic tank and subsurface treatment and distribution system, or industrial wastewater systems under private ownership. (3-24-05)
- 102.** **State.** The state of Idaho. (3-24-05)

(BREAK IN CONTINUITY OF SECTIONS)

300. REQUIREMENTS FOR LICENSE (RULE 300).

Applicants shall submit an application together with the required fees and such documentation as is required. (3-24-05)

01. Examination Requirement. Applicants must pass a written examination for each individual classification in each type of licensure with a minimum score of seventy percent (70%). For those classifications of Class II through IV, successful completion of the examinations from the immediate lower type and classification shall be a prerequisite to examination eligibility for the next higher classification of the same type, except that applicants for wastewater collection operator or wastewater laboratory analyst or drinking water distribution operator licenses may apply for any classification examination for which they hold the required education and experience.

(3-30-06)

a. The examination will reflect different levels of knowledge, ability and judgment required for the established license type and class. The Board will administer examinations at such times and places as the Board may determine.

(3-24-05)

b. The examination for all types and classes of licensure shall be validated and provided by the Association of Boards of Certification (ABC). The American Backflow Prevention Association (ABPA) backflow assembly tester licensure is also approved.

~~(3-30-06)~~(____)

c. Applicants who fail an examination must make application to retake the same type and class examination and pay the required examination fees prior to retaking the examination.

(3-24-05)

d. Applicants must take and pass the examination within one (1) year of application approval. After one (1) year a new application and applicable fees must be submitted.

(3-30-07)

02. Education and Experience Requirements. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable. An applicant may not use the same experience for more than one (1) license.

~~(3-24-05)~~(____)

a. Each applicant for an Operator-In-Training License must have a high school diploma or GED and pass a Class I exam.

(3-30-06)

b. To qualify for a Very Small Water System license an operator must have a high school diploma or GED and six (6) months of acceptable operator-in-training experience at a water distribution system.

(3-24-05)

c. To qualify for a Class I license an applicant must have a high school diploma or GED and one (1) year of acceptable experience at a Class I or higher system. To upgrade an OIT license to a Class I the applicant must provide documented proof to the Board of having completed one (1) year of supervised operating experience in a Class I or higher public drinking water or wastewater system, and payment of the required fees.

~~(3-24-05)~~(____)

d. To qualify for a Class II treatment or lab analyst II license an applicant must have a high school diploma or GED and three (3) years of acceptable Class I operating experience at a Class I or higher system.

~~(3-24-05)~~(____)

e. To qualify for a Class III treatment or lab analyst III license an applicant must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable Class II operating experience of a Class II or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class.

~~(3-24-05)~~(____)

f. To qualify for a Class IV treatment or lab analyst IV license an applicant must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable Class III operating experience at a Class III or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class.

~~(3-24-05)~~(____)

g. To qualify for a Class II collection or distribution license an operator must have a high school diploma or GED and three (3) years of acceptable operating experience at a Class I or higher system.

(3-24-05)

h. To qualify for a Class III collection or distribution license an operator must have a high school

diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

i. To qualify for a Class IV collection or distribution license an operator must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience at a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

j. To qualify for a lagoon license, an operator must have a high school diploma or GED and twelve (12) months of acceptable supervised operating experience at a Lagoon system. (3-24-05)

k. To qualify for a Wastewater Land Application license, an operator must have a high school diploma or GED, a current wastewater treatment license and minimum six (6) months of hands-on operating experience at a wastewater land application system. The wastewater land application operator that is a responsible charge or substitute responsible charge operator must be licensed at the type and class equal to or greater than the classification of the wastewater system. (3-24-05)

l. To qualify for a backflow assembly tester license, an applicant must have a high school diploma or GED, and shall document successful completion of a Board-approved backflow assembly tester training program in compliance with the Cross Connection Control Accepted Procedure and Practice Manual and consisting of theory instruction, practical instruction, and a practical examination in compliance with the USC Test procedures. (3-30-06)

m. To qualify for an original wastewater laboratory analyst license, an applicant must hold a current water treatment, wastewater treatment or lagoon license. (3-24-05)

03. Substituting Education for Experience. Applicants may substitute approved education for operating and responsible charge experience as specified below. (3-24-05)

a. No substitution for operating experience shall be permitted for licensure as a very small system operator or a Class I operator. (3-24-05)

b. For Classes II, III and IV, substitution shall only be allowed for the required experience when fifty percent (50%) of all stated experience (both operating and responsible charge) has been met by actual on-site operating experience. (3-24-05)

c. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. (3-24-05)

d. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however the applicant must still have one (1) year of responsible charge experience. (3-24-05)

e. Education substituted for operating experience may not be also credited toward the education requirement. (3-24-05)

f. One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-24-05)

04. Substituting Experience for Education. Where applicable, approved operating and responsible charge experience may be substituted for education as specified below: (3-24-05)

a. One (1) year of operating experience may be substituted for two (2) years of grade school or one (1) year of high school with no limitation. (3-24-05)

b. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) year post high school education. (3-24-05)

05. Substituting Experience for Experience. Related experience may be substituted for experience up to one-half (½) of the operating experience requirement for Class II, III and IV. Experience that may be substituted includes but is not limited to the following: (3-24-05)

- a.** Experience as an environmental or operations consultant; (3-24-05)
- b.** Experience in an environmental or engineering branch of federal, state, county, or local government; (3-24-05)
- c.** Experience as a wastewater collection system operator; (3-24-05)
- d.** Experience as a wastewater treatment plant operator; (3-24-05)
- e.** Experience as a water distribution system operator and/or manager; (3-24-05)
- f.** One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-24-05)
- g.** Experience in waste treatment operation and maintenance. (3-24-05)

06. Equivalency Policy. Substitutions for education or experience requirements needed to meet minimum requirements for license will be evaluated upon the following equivalency policies: (3-24-05)

- a.** High School - High School diploma = GED or equivalent as approved by the Board = four (4) years. (3-24-05)
- b.** College - Thirty-five (35) credits = one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields as determined by the Board). (3-24-05)
- c.** Continuing Education Units (CEU) for operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours = one (1) CEU; forty-five (45) CEUs = one (1) year of college. (3-24-05)

(BREAK IN CONTINUITY OF SECTIONS)

500. CONTINUING EDUCATION (RULE 500).

In order to further protect the health, safety and welfare of Idaho's public, and to facilitate the continued competence of persons licensed under the drinking water and wastewater professionals licensing act, the Board has adopted the following rules for continuing education. (3-24-05)

01. Continuing Education Requirement. Each licensee must successfully complete a minimum of six (6) hours (0.6 CEUs) of approved continuing education annually for license renewal, except that backflow assembly testers shall complete an eight (8) hour refresher course every two (2) years for license renewal. Continuing education must be earned in a subject matter relevant to the field in which the license is issued. A licensee holding one (1) or more drinking water license(s) shall be required to meet the annual continuing education requirement for only one license. A licensee holding one (1) or more wastewater license(s) shall be required to meet the annual continuing education requirement for only one license. A licensee holding both drinking water and wastewater class licenses must complete a minimum of six (6) hours annually for the drinking water license plus six (6) hours annually for the wastewater license. (3-30-06)

a. Each licensee shall submit to the Board an annual license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the CE requirements have been met. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (3-24-05)

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their license. (3-24-05)

c. A water or wastewater licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. The same hours may not be carried forward more than one (1) renewal cycle. (3-24-05)

d. Continuing Education hours for approved operator training courses, seminars, related college courses, and other training activities may be converted to Continuing Education Units (CEU) as follows: Six (6) classroom hours = point six (0.6) CEU. (3-24-05)

02. Subject Material. The subject material of the continuing education requirement shall be relevant to the license for which the continued education is required. "Relevant" shall be limited to material germane to the operation, maintenance and administration of drinking water and wastewater systems as referenced in Chapter 24, Title 54, Idaho Code, and includes those subjects identified in the "need to know" criteria published by the Associations of Boards of Certification. (3-30-06)

03. Course Approval. All course providers must submit requests for approval of continuing education courses to the Board in writing no less than thirty (30) days prior to the course being offered, on a form approved by the Board that includes: (3-30-06)

a. The name and qualifications of the instructor or instructors; (3-24-05)

b. The date, time and location of the course; (3-24-05)

c. The specific agenda for the course; (3-24-05)

d. The type and number of continuing education credit hours requested; (3-24-05)

e. A statement of how the course is believed to be relevant as defined; (3-24-05)

f. Any certificate of approval from a governmental agency if the course has been previously approved for continuing education; (3-30-06)

g. The training materials; (3-24-05)

h. Other information as may be requested by the Board. (3-24-05)

i. Upon review of all information requested, the Board may either approve or deny any request for a course. Board approval of a course shall be granted for a period not to exceed two (2) years or until the course materials or instructors are changed. (3-30-06)

04. Approved Courses. Those continuing education courses which are relevant and approved by the states of Nevada, Oregon, Montana, Utah, Wyoming, and Washington are deemed approved by the Board. ()

045. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee and provided upon request of the Board or its agent. (3-24-05)

056. Distance Learning and Independent Study. The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the licensee in a face-to-face

setting with the course instructor. The licensee shall maintain documentation of the nature and details of the course and evidence that the licensee successfully completed the course, which shall be made available to the Board upon request. (3-30-06)

067. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-24-05)

078. Exemptions. The Board may waive the continuing education requirement or extend the deadline up to ninety (90) days for any one or more of the following circumstances. The licensee must request the exemption and provide any information requested to assist the Board in making a determination. An exemption may be granted at the sole discretion of the Board. (3-30-06)

a. The licensee is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for licensure renewal and has complied with the requirements of that state or district. (3-24-05)

b. The licensee is a government employee working outside the continental United States. (3-24-05)

c. The licensee documents individual hardship, including health (certified by a medical doctor) or other good cause. (3-24-05)

501. -- 599. (RESERVED).

600. RENEWAL OR REINSTATEMENT OF LICENSE (RULE 600).

01. Expiration Date. All licenses expire and must be renewed annually on forms approved by the Board in accordance with Section 67-2614, Idaho Code. Licenses not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. (3-24-05)

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant shall submit proof of having ~~met the~~ completed the total number of required continuing education for each year the license or certificate was cancelled. (~~3-24-05~~)(____)

03. Operator-in-Training ~~Permit~~ License. Applicants for the operator-in-training ~~permit~~ license shall, upon compliance with the requirements of Subsections 300.01 and 300.02, be issued a "one-time" non-renewable ~~permit~~ license for the purpose of gaining supervised experience as an operator-in-training (OIT). This ~~permit~~ license will be valid for three (3) years from the date of issue. ~~Upon making application and providing~~ To upgrade an OIT license to a Class I the applicant must provide documented proof to the Board of having completed ~~twelve (12) months~~ one (1) year of supervised operating experience in a Class I or higher public drinking water or wastewater system, and payment of the required fees, ~~the permittee will be issued a Class I License.~~ (~~3-30-06~~)(____)

04. Backflow Assembly Testers. Backflow assembly testers shall complete a Board-approved eight (8) hour refresher course every two (2) years for license renewal. (3-30-06)

05. Wastewater Land Application License. Wastewater land application licenses shall not be renewed unless the licensee also maintains a current wastewater treatment license. (3-30-06)

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES
24.07.01 - RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS
DOCKET NO. 24-0701-0701 (FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-3003, 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 October 17, 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:

To update the incorporation by reference, update address of the Board, to add an application fee, and to clarify the supervision and limitations on the landscape architect-in-training.

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

This change would add a \$25.00 application fee per Section 54-3003(5)(b), Idaho Code, to landscape architects-in-training and will increase the revenues of the Board by approximately \$250.00 based on an average for the last three years. The impact is on dedicated funds.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes should not be controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of August, 2007.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0701-0701

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled the Council of Landscape Architectural Registration Boards (CLARB) Model Rules of Professional Conduct as amended ~~September 2002~~ February 2007, referenced in Subsection 425, is herein incorporated by reference. ~~(3-20-04)()~~

005. ADDRESS OF IDAHO BOARD OF LANDSCAPE ARCHITECTS (RULE 5).

The office of the Board of Landscape Architects is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ~~lar@ibol.state.id.us~~ lar@ibol.idaho.gov. The Board's official web site is at <http://www.ibol.idaho.gov/lar.htm>. (3-24-05)()

(BREAK IN CONTINUITY OF SECTIONS)

250. LANDSCAPE ARCHITECT-IN-TRAINING (RULE 250).

An individual may represent themselves as a landscape architect-in-training only under the following conditions: (3-20-04)

01. Qualifications. Any person who is at least eighteen (18) years of age and has graduated from an approved college or school of landscape architecture, or who documents at least eight (8) years of actual practical experience in landscape architecture approved by the Board. (3-20-04)

02. Supervision. Each landscape architect-in-training shall be employed by and work under the direct supervision of an Idaho licensed landscape architect. Any change in supervision shall require a new application and registration. (3-20-04)()

03. Prohibitions. A landscape architect-in-training shall not sign or seal any plan, specification, or other document, and shall not engage in the practice of landscape architecture except under the direct supervision of an Idaho licensed landscape architect. (3-20-04)

04. Registration. Each landscape architect-in-training shall register with the Board on forms provided by the Bureau of Occupational Licenses that shall include the application fee and the names and addresses of their employer, and supervisor. (3-20-04)()

05. Termination. A registration for a landscape architect-in-training shall not exceed a total of six (6) years. ()

(BREAK IN CONTINUITY OF SECTIONS)

400. FEES (RULE 400).

Fees are not refundable, therefore, applications should not be filed unless the applicant can meet all requirements. (7-1-93)

01. Application Fee. Application Fee (Original-Reapplication-Endorsement): One hundred dollars (\$100). (3-20-04)

02. Landscape Architect-in-Training Application Fee. Landscape architect-in-training application fee: Twenty-five dollars (\$25). ()

03. Examination Fees. Examination fees will be as established by the Council of Landscape Architectural Registration Boards. (3-20-04)

034. Original License and Annual License Fee. Original license and annual license fee: One hundred fifty dollars (\$150). (3-21-07)

045. Reinstatement Fee. Reinstatement fee: Twenty-five dollars (\$25). (7-1-93)

056. Processing Fee. Applicants for examination must submit a twenty-five dollar (\$25) processing fee, together with the examination fees and the application fee. (3-20-04)

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-0701

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(s) 54-1107, 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 October 17, 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:

To correct examination requirements for funeral director. Combine funeral and crematory establishment requirements to lessen confusion and add provisions for display of caskets and merchandise to include video, catalogs and electronic depiction.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are formatting and clarification and not new requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0801-0701

325. APPROVED EXAMINATION (RULE 325).

Applicants for licensure shall successfully pass the examinations set forth below.

(3-16-04)

- 01. Mortician Examination.** The Mortician examination shall consist of: (3-16-04)
- a.** All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and (3-16-04)
- b.** The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)
- c.** The examination of the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)
- 02. Funeral Director.** The funeral director examination shall consist of: (3-16-04)
- a.** The Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board's ~~National Board Examination~~; and (~~3-16-04~~)()
- b.** The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)
- c.** The examination of the rules of the Idaho Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)
- 03. Grading.** The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT (RULE 450).
All applicants for establishment license shall submit a completed application on a form approved by the Board. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. ()

01. ~~Branch or Satellite Facility.~~ ~~A newly licensed establishment operated as a branch or satellite facility must meet the same requirement for licensure as if it were operated independently. It will be required to provide an operating room and necessary equipment for embalming, a display room for caskets, a chapel where funeral or other religious ceremonies may be held and a room for viewing and visitation.~~ **Contents of Application.** Each applicant for a license to operate a funeral establishment or crematory establishment in Idaho shall document the following: (7-1-93)()

- a.** Name and address of owner whether individual or entity; and ()
- b.** Notarized signature of applicant or authorized agent; and ()
- c.** Name and license number of responsible licensee; and ()
- d.** Other such information as the board may require. ()

02. Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (7-1-93)

03. Funeral Establishment. All funeral establishments shall be required to provide each of the following: ()

a. An operating room and necessary equipment for embalming; ()

b. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; ()

c. A chapel where funeral or other religious ceremonies may be held; and ()

d. A room for viewing and visitation. ()

034. Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: (7-1-93)

a. The price of the service that the person or persons have selected and what is included therein. (7-1-93)

b. The prices of each of the supplementary items of service and/or merchandise requested. (7-1-93)

c. The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (7-1-93)

d. The method of payment. (7-1-93)

e. If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. (7-1-93)

05. Crematory Establishment. All crematory establishments shall be required to provide each of the following: ()

a. Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code; and ()

b. One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances. ()

451. APPLICATION FOR LICENSE TO OPERATE A CREMATORY (RULE 451) (RESERVED).

~~**01. Contents of Application.** Each applicant for a license to operate a crematory in Idaho shall supply to the Idaho Board of Morticians the following information: (3-16-04)~~

~~**a. Name and address of corporation or firm; and** (3-16-04)~~

~~**b. Number of retorts; and** (3-16-04)~~

~~**c. Signature of applicant; and** (3-16-04)~~

~~**d. Date of signature.** (3-16-04)~~

~~**02. Forms Issued by the Board.** The required "Application for License to Operate a Crematory" will be issued in blank and be made available to applicants by the Board. (3-16-04)~~

~~**03. Equipment Listing, Drawing Approval and Air Quality Standards.** As a part of the initial~~

~~application for licensure, the applicant must submit the following to the Board: (3-16-04)~~

~~**a.** Detailed information regarding the retort specifically documenting that the retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code; (3-16-04)~~

~~**b.** One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances; and (3-16-04)~~

~~**c.** A copy of the permit issued by the Department of Environmental Quality indicating compliance with air quality standards. (3-16-04)~~

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES

24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

DOCKET NO. 24-0901-0701

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(s) 54-1604, 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 October 17, 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:

Change would allow continuing education requirements to be waived for the first renewal of the license and clarify the setting for trainees in the administrators-in-training program.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are for clarification purposes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 21st day of August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0901-0701

200. EDUCATIONAL AND TRAINING REQUIREMENTS (RULE 200).

01. **Educational Requirements.** In order to be credited toward the educational requirements of the

Act, a seminar or course of study must be relevant to nursing home administration as determined by the Board and sponsored by accredited universities or colleges, State or National health related associations, and/or approved by NCERS (National Continuing Education Review Service). (7-1-93)

02. Requirements for License Renewal. The department shall refuse to renew a Nursing Home Administrators license unless the required fee is accompanied by evidence of having met the educational and training requirement set forth in these rules on the form provided for that purpose by the Bureau of Occupational Licenses. (7-1-98)

03. Renewal of License. Applicants for renewal of license shall be required to attend a minimum of twenty (20) clock hours of courses approved under Subsection 200.01 within the preceding twelve-month (12) period. Licensees shall not be required to comply with this requirement during the first year in which they become licensed under this chapter. (7-1-98)()

04. Credit Received Toward Renewal of License. Credit received toward renewal of license may not be used again toward renewal of license for another license year. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

400. NURSING HOME ADMINISTRATORS-IN-TRAINING (RULE 400).

01. Related Health Care Field. "Related health care field" shall mean a field in health care related to administration. (7-1-93)

02. Trainees. Trainees must work on a full time basis in any capacity in an Idaho licensed nursing home setting. Full time shall be a forty (40) hour per week work schedule with consideration for normal leave taken. Failure to comply with this rule or Section 54-1610, Idaho Code, shall not receive credit as a Nursing Home Administrator-In-Training. (4-6-05)()

a. Each trainee shall register with the Board as a Nursing Home Administrator-In-Training (AIT) by submitting an application provided by the Board together with the required fee. The effective date of each AIT program shall be the date the Board approves the application. (3-13-02)

b. Quarterly reports for those trainees employed in a nursing home must reflect that the preceptor of the trainee has instructed, assisted and given assignments as deemed necessary to fulfill the requirements of Subsection 400.03. (7-1-98)

03. Nursing Home Administrator-in-Training Requirements. A Nursing Home Administrator-in-Training shall be required to train in all phases of nursing home administration including the following: (7-1-93)

a. Resident Care Management. (7-1-98)

b. Personnel Management. (7-1-93)

c. Financial Management. (7-1-93)

d. Environmental Management. (7-1-98)

e. Meeting Regulations and Governing Entities Directives. (7-1-98)

f. Organizational Management. (7-1-98)

g. Completion of a specialized course of study in nursing home long-term health care administration approved by NAB or otherwise approved by the Board. (4-6-05)

04. Facility Administrator. The trainee must spend no less than thirty-two (32) hours a month with the preceptor in a training and/or observational situation in the six (6) areas of nursing home administration as outlined in Subsection 400.03. Quarterly reports must reflect particular emphasis on the six (6) phases of nursing home administration during the time spent in the nursing home. (5-3-03)

05. Preceptor Certification. (7-1-93)

a. A nursing home administrator who serves as a preceptor for a nursing home administrator-in-training must be certified by the Board of Examiners of Nursing Home Administrators. The Board will certify the Idaho licensed nursing home administrator to be a preceptor who: (7-1-98)

i. Is currently practicing as a nursing home administrator and who has practiced a minimum of two (2) consecutive years as a nursing home administrator; and (7-1-98)

ii. Who successfully completes a six (6) clock hour preceptor orientation course approved by the Board. (7-1-93)

b. The orientation course will cover the philosophy, requirements and practical application of the nursing home administrator-in-training program and a review of the six (6) phases of nursing home administration as outlined in Subsection 400.03. (7-1-93)

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES

24.11.01 - RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-0701

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(s) 54-605, 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 October 17, 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:

Revise examination rules to allow for consideration of the national board examination and the acceptable passing grade, establish a deadline for pending applications, and revise the continuing education courses that the board will accept.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes should not create controversy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of August, 2007

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Phone (208) 334-3233 / Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1101-0701

400. LICENSURE BY EXAMINATION (RULE 400).

01. Examination of Applicants. *Examination of applicants shall be conducted by the whole board or by its designated agents or representatives.* All applicants must successfully pass all parts of the national board examination given by the National Board of Podiatric Medical Examiners. (7-1-97)()

~~02. **Exam Required for Licensure.** No person shall be granted a license to practice podiatry without first receiving a passing grade on an examination given by the board and consisting of those subjects outlined in Section 54-606, Idaho Code. (3-13-02)~~

~~03. **Exam Dates.** Examinations shall be held at Boise, Idaho, no less than annually and at such times and places as the board shall direct. (4-11-06)~~

042. Passing Grade. A passing grade in all subjects examined shall be the grade as established by the National Board of Podiatric Medical Examiners for the examination with a general average of not less than seventy percent (70%). (5-3-03)(____)

~~05. **Failure of Exam.** An applicant failing the examination shall be entitled within six (6) months to a reexamination upon the payment of an additional fee as established in Section 300. (3-13-02)~~

~~06. **Failure of Reexam.** An applicant who fails the examination on two (2) such reexaminations shall exhaust his privilege under his original application. (9-28-94)~~

~~07. **Original Application.** The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. (7-1-97)~~

(BREAK IN CONTINUITY OF SECTIONS)

~~403. -- 4409. (RESERVED).~~

410. ORIGINAL APPLICATION (RULE 410).

The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. (____)

~~411. -- 449. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

700. CONTINUING EDUCATION (RULE 700).

01. Post Graduate Education Requirement for License Renewal. Each podiatrist licensed by the state of Idaho shall attend in each twelve (12) month period preceding the renewal of a license to practice podiatry in Idaho, a minimum of twelve (12) full hours of post-graduate podiatry education courses ~~approved by the Board.~~ No more than six (6) hours may be home study. Courses must be germane to the practice of podiatry; and (7-1-98)(____)

a. Approved by the Council on Podiatric Medical Education; or (____)

b. Otherwise approved by the Board. (____)

02. Submission of License Renewal Application Form. Each licensed Idaho podiatrist will be furnished a license renewal application form by the Bureau of Occupational Licenses on which each podiatrist shall be required to certify by signed affidavit that compliance with the continuing education requirements has been met and shall submit the renewal application together with the required fees to the Bureau. (3-15-02)

03. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the applicant. This verification shall be maintained by the licensee and provided to the Board upon the request of the Board or its agent. The Board will conduct random audits to monitor compliance. (3-15-02)

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES
24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-0701

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(s) 54-3204, 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 October 17, 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:

To clarify supervision of social workers in state and out of state and supervisor registration requirements. Update examination titles and update terminology in public policy and code of professional conduct.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are necessary to protect the public in regards to qualified supervised experience and code of conduct.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1401-0701

201. PRACTICE OF SOCIAL WORK.

01. Baccalaureate Social Work. The application of social work theory, knowledge, methods, and

ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. Bachelor level social workers are prohibited from performing psychotherapy. (3-20-04)

02. Master's Social Work. The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or psychiatrist and in accordance with an approved supervision plan. (3-20-04)

03. Clinical Social Work. The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning of individuals, families, and small groups. Clinical social work includes, but is not limited to, individual, couples, family and group psychotherapy, and includes independent and private practice. (3-20-04)

04. Private Practice of Social Work. As defined in Section 54-3207, Idaho Code, is that independent practice in which an individual sets up and maintains responsibility for the contractual conditions of payment with clients, agencies, or institutions. (5-3-03)

05. Employment of a Social Worker. A social worker employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility, is not to be considered within the definition of an independent practitioner. Furthermore, a social worker who contracts with an agency or institution that assumes full responsibility for and supervises the services provided to clients is not considered to be a private practitioner. (5-3-03)

06. Supervision. Supervised experience shall be required for both independent practice status and clinical licensure. Consultative-teaching supervision is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. A total of three thousand (3,000) hours of supervised social work experience accumulated in not less than two (2) years is required. Actual supervisor contact shall be face-to-face and provided by a qualified and experienced professional working in the same area of practice and must occur on a regular and on-going basis and consist of a minimum of one hundred hours (100) hours. Ratio of supervisor/supervisee shall not exceed two (2) social workers to one (1) supervisor per hour of supervision. Group supervision totaling no more than fifty (50) hours will be allowed for groups of no more than six (6) persons and the allowable credit shall be prorated at the two to one (2 to 1) ratio (total session minutes divided by total supervisees multiplied by two (2) equals maximum allowable credit per supervisee for the session. i.e. an individual attending a one (1) hour group supervisory session consisting of six (6) supervisees shall be allowed twenty (20) minutes of group supervision credit). Supervisors must hold a degree in social work and a current license in good standing, except as noted in Subsection 201.086.c. (~~4-11-06~~)(____)

a. Supervision of baccalaureate social workers pursuing licensure as independent practitioners must be provided by a licensed social worker approved to provide independent practice at the baccalaureate, masters, or clinical level. (3-20-04)

b. Supervision of masters social workers pursuing licensure as independent practitioners must be provided by a licensed social worker approved to provide independent practice at the masters or clinical level.

(5-3-03)

c. Supervision of social workers pursuing licensure as clinical level practitioners must be provided by either a licensed clinical social worker who is registered as a supervisor, a licensed clinical psychologist, a person licensed to practice medicine and surgery who practices in the area of psychiatry, a licensed clinical professional counselor registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists or a licensed marriage and family therapist registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists and must focus on clinical social work as defined. No less than fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker registered as a supervisor. A social worker pursuing licensure at the clinical level must document one thousand seven hundred fifty (1,750) hours of direct client contact of the required three thousand (3,000) hours in clinical social work as defined. ~~(3-14-05)~~(____)

d. Supervision reports shall be submitted from each supervisor directly to the Board within thirty (30) days following each six (6) month period. Failure of the supervisor to submit the required reports in a timely manner may result in the supervisor being restricted by the Board from providing further supervision. (3-20-04)

07. Supervised Practice Required. To be eligible for licensure as an independent practitioner a candidate must: (5-3-03)

a. Meet the requirements set forth in Subsection 201.086; ~~(3-20-04)~~(____)

b. Develop a plan for supervision that must be approved by the Board prior to commencement of supervision. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by the Board prior to the commencement of supervision by the new supervisor; and (5-3-03)

c. Not have more than two (2) supervisors at any given time. (5-3-03)

08. Out-of-State Supervised Experience. The Board may consider supervised experience obtained outside the state of Idaho submitted for Idaho license purposes. Supervised experience must be provided by a licensed clinical social worker, licensed marriage and family therapist, licensed clinical psychologist, or a person licensed to practice medicine and surgery who practices in the area of psychiatry. No less than fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker. The applicant must meet the other requirements of supervised practice as set forth in these rules. (____)

202. SOCIAL WORK SUPERVISOR REGISTRATION (RULE 202).

Effective January 1, 2007, Idaho licensed social workers shall be registered with the Board in order to provide postgraduate supervision for those individuals pursuing licensure in Idaho as a clinical social worker. (4-11-06)

01. Requirements for Registration. (3-14-05)

a. Document at least two (2) years experience as a licensed clinical social worker. (4-11-06)

b. Have not been the subject of any disciplinary action for five (5) years prior to application for registration. (3-14-05)

c. Document fifteen (15) contact hours of education in clinical supervisor training as approved by the Board. ~~(4-11-06)~~(____)

02. Registration. A supervisor applicant shall submit to the Bureau a completed application form as approved by the board. (3-14-05)

a. Upon receipt of a completed application verifying compliance with the requirements for registration as a supervisor, the applicant shall be registered as a supervisor. (3-14-05)

b. A supervisor's registration shall be valid only so long as the individual's clinical social worker license remains current and in good standing. (3-14-05)

(BREAK IN CONTINUITY OF SECTIONS)

350. EXAMINATIONS, ENDORSEMENT, AND BOARD MEETINGS (RULE 350).

Examinations will be conducted by the board for qualified applicants for social work licensing and board meetings will be held to conduct other business. Applications for examination may be reviewed and approved by a designated Board member upon determination that the applicant meets the qualifications for examination. Approval to sit for examination does not obligate the Board to issue a license if it is later determined that the applicant does not meet the requirements for licensure. (3-20-04)

01. Board Meetings. Board meetings will be held at least three (3) times each year at such times and places as the board deems necessary. (5-3-03)

02. Exam Utilized. The Board utilizes the uniform, nationally standardized examination of the Association of Social Work Boards (ASWB). (5-3-03)

a. Bachelor level candidates shall be required to successfully pass the ~~basic~~ bachelor's examination. (5-3-03)()

b. Masters level candidates shall be required to successfully pass the ~~intermediate~~ master's examination. (5-3-03)()

c. Clinical level candidates shall be required to successfully pass the clinical examination. (5-3-03)

03. Dates of Exams. Examination at all levels of social work licensing will be conducted on dates established for national administration. (7-1-93)

04. Graduation Date to Qualify for Exam. Candidates for examination who can satisfy the board that they will be graduating at the end of the spring, summer or fall terms of any given year, may qualify for examination at the established testing period immediately preceding the date of graduation. (5-24-95)

05. Exemption from Exam. An applicant who has been tested for licensure utilizing an acceptable examination will be exempt from the Idaho examination if the applicant received a converted score of seventy (70) based upon a criterion reference examination. (7-1-93)

06. Endorsement. The Board may grant a license to any person who submits a completed application on a form approved by the Board together with the required fees and who: (5-3-03)

a. Holds a current, active social work license, at the level for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the Board from the issuing agency; and (3-20-04)

b. Has not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and (5-3-03)

c. Is of good moral character and has not been convicted, found guilty, or received a withheld judgment or suspended sentence for any felony; and (5-3-03)

d. Has successfully passed an examination, as referenced in Subsection 350.02, or an examination provided by the Professional Examination Service (PES) at the clinical social worker and social worker level or the Education Testing Service (ETS) examination; and (5-3-03)

e. Has certified under oath to abide by the laws and rules governing the practice of social work in Idaho and the code of professional conduct. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

450. STATEMENT OF PUBLIC POLICY AND CODE OF PROFESSIONAL CONDUCT (RULE 450).

The profession of social work is dedicated to serving people; the professional relationship between social workers and clients thus shall be governed by the highest moral and ethical values. The client is in a vulnerable role that extends beyond the time frame of actual services. In both social and professional interactions, this vulnerability shall be taken into consideration whether the person is currently or has been a client. Following is the Code of Professional Conduct: (5-24-95)

01. The Social Worker's Ethical Responsibility to Clients. (7-1-93)

a. For the purpose of this Code of Professional Conduct, a client is anyone for whom the social worker provides social work services directly or indirectly through consultations, staffings, or supervision with other professionals. (7-1-93)

b. The social worker shall not commit fraud nor misrepresent services performed. (7-1-93)

c. The social worker shall not solicit the clients of an agency for which they provide services for his private practice. (7-1-93)

d. The social worker shall not divide a fee or accept or give anything of value for receiving or making a referral. (7-1-93)

e. The social worker shall provide clients with accurate and complete information regarding the extent and nature of the services available to them. (7-1-93)

f. The social worker shall terminate service to clients, and professional relationships with them, when such service and relationships are no longer required or in which a conflict of interest arises. (7-1-93)

g. A social worker shall not violate a position of trust by knowingly committing any act detrimental to a client. (7-1-93)

h. A social worker shall not exploit their professional relationships with clients (or former clients), supervisees, supervisors, students, employees, or research participants, sexually or otherwise. Social workers shall not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwelcomed by the recipient. (7-1-93)

i. A social worker shall not engage in sexual acts with a client or with a person who has been a client within the past three (3) years. A social worker shall not provide social work services to a person with whom he/she has had a sexual relationship. (7-1-93)

02. The Social Worker's Conduct and Compartment as a Social Worker. (7-1-93)

a. In providing services, a social worker shall not discriminate on the basis of age, ~~sex~~ gender, race, color, religion, national origin, mental status, ~~or~~ physical ~~handicap~~ disability, social or economic status, political belief, or any other preference or personal characteristic, condition or status. (7-1-93)()

b. Social workers shall not undertake any activity in which their personal problems are likely to lead to inadequate performance or harm to a client, colleague, student, or research participant. If engaged in such activity when they become aware of their personal problems, they shall seek competent professional assistance to determine whether they should suspend, terminate, or limit the scope of their professional activities. (7-1-93)

c. A social worker shall not ~~provide social work service practice~~ while ~~under the influence of~~ impaired by medication, alcohol, or other mind-altering or mood-altering drugs, which impair delivery of services or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to practice safely. (7-1-93)()

- d.** A social worker shall not repeatedly fail to keep scheduled appointments. (7-1-93)
- e.** The social worker who anticipates the termination or interruption of service to clients shall notify clients promptly and seek the transfer, referral, or continuation of services in relation to the clients' needs and preferences. (7-1-93)
- f.** The social worker shall attempt to make appropriate referrals as indicated by the client's need for services. (7-1-93)
- g.** A social worker shall obtain the client's or legal guardian's informed written consent when a client is to be involved in any research project. A social worker shall explain the research, including any implications. (7-1-93)
- h.** The social worker shall obtain informed consent of clients before taping, recording, or permitting third party observation of their activities. (7-1-93)
- i.** A social worker shall safeguard information given by clients in providing client services. Except when required by law or judicial order, a social worker shall obtain the client's informed written consent before releasing confidential information from the setting or facility except for compelling reasons defined as but not limited to:
- i.** Consultation with another professional on behalf of the client thought to be dangerous to self or others; (7-1-93)
 - ii.** Duty to warn pursuant to Chapter 19, Title 6, Idaho Code; (5-24-95)
 - iii.** Child abuse and sexual molestation pursuant to Chapter 16, Title 16, Idaho Code; and (5-24-95)
 - iv.** Any other situation in accordance with statutory requirements. (7-1-93)
- j.** A social worker shall report any violation of the law or rules, including Code of Professional Conduct, by a person certified under Chapter 32, Title 54, Idaho Code. (7-1-93)
- 03. Competent Practice for Social Workers.** All social workers shall practice in a competent manner consistent with their level of education, training and experience. (3-20-04)
- a.** A social worker shall only represent himself and practice within the boundaries of his education, training, licensure level, supervision, and other relevant professional experience. (3-20-04)
- b.** A social worker shall only practice within new areas or use new intervention techniques or approaches after engaging in appropriate study, training, consultation, or supervision. (3-20-04)
- c.** A social worker shall exercise careful judgement, when generally recognized standards do not exist with respect to an emerging area of practice, and take responsible steps to ensure the competence of his practice. (3-20-04)
- 04. The Advertising Rules for Social Workers.** No social worker shall disseminate or cause the dissemination of any advertisement or advertising which is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising shall be deemed by the board to be fraudulent, false, deceptive, or misleading if it: (7-1-93)
- a.** Contains a misrepresentation of fact; or (7-1-93)
 - b.** Is misleading or deceptive because in its content or in the context in which it is presented it makes only a partial disclosure of relevant facts. More specifically, it is misleading and deceptive for a social worker to advertise free services or services for a specific charge when in fact the social worker is transmitting a higher charge

for the advertised services to a third party payor for payment or charges the patient or a third party. It is misleading and deceptive for a social worker or a group of social workers to advertise a social work referral service or bureau unless the advertisement specifically names each of the individual social workers who are participating in the referral service or bureau. (7-1-93)

- c.** Creates false or unjustified expectations of beneficial treatment or successful outcomes; or (7-1-93)
- d.** Fails to identify conspicuously the social worker or social workers referred to in the advertising as a social worker or social workers; or (7-1-93)
- e.** Contains any representation or claims, as to which the social worker, referred to in the advertising, fails to perform; or (7-1-93)
- f.** Contains any representation which identifies the social worker practice being advertised by a name which does not include the terms "social worker," "social work," or some easily recognizable derivation thereof; or (7-1-93)
- g.** Contains any representation that the practitioner has received any license or recognition by the state of Idaho or its authorized agents, which is superior to the license and recognition granted to any social worker who successfully meets the licensing requirements of Chapter 32, Title 54, Idaho Code; or (7-1-93)
- h.** Appears in any classified directory, listing, or compendium under a heading, which when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to the profession or professional status of the social worker; or (7-1-93)
- i.** Contains any other representation, statement, or claim which is misleading or deceptive. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.15.01 - RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-0701 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-3404, 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 October 17, 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:

To clarify the qualifications for professional counselor license, update accrediting bodies for correct titles, clarify supervision requirements for marriage and family therapists, clarify that interns must be registered prior to commencement of supervised experience, add renewal fees for inactive license status and senior status, clarify endorsement continuing education, create inactive status and senior status, and clarify continuing education exemption for inactive status.

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

There could be an impact on dedicated funds which is dependant on the number of licensees requesting inactive or senior status. Current renewal fees are \$100. Inactive status would be \$50 and Senior status would be \$60, so there would be a minimal decrease in revenues for the board.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there was no controversy on the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1501-0701

150. QUALIFICATIONS FOR PROFESSIONAL COUNSELOR LICENSURE (RULE 150).

Licensure as a "professional counselor" shall be restricted to persons who have successfully completed the required examination and each of the following requirements: (3-30-06)

01. Graduate Program Requirement. A planned graduate program of sixty (60) semester hours which is primarily counseling in nature, six (6) semester hours of which are earned in an advanced counseling practicum, and including a graduate degree in a counseling field from an accredited university or college offering a graduate program in counseling. (7-1-93)

a. A planned graduate program in a counseling field shall be defined as completion of one (1) of the following: (7-1-93)

~~**i.** A counseling program accredited or approved by the National Council for accreditation of Teacher Education or a counseling program listed in the Interstate List of Approved Programs; or~~ (7-1-93)

ii. A counseling program approved by the Council for Accreditation of Counseling and Related Educational Programs; or (7-1-93)

iii. A counseling program approved by the Council on Rehabilitation Education; or (7-1-93)

~~**iv.** A counseling program approved by the Board which shows evidence of education in the following areas: Counseling Theory, Counseling Techniques and Supervised Counseling Experience (this practicum must be supervised at the ratio of at least one (1) hour of one-to-one supervision for every ten (10) hours of experience in the setting) and a minimum of one graduate level course in at least six (6) of the following eight (8) areas;~~ (7-1-93)()

(1) Human growth and development: Includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on psychological, sociological, and physiological approaches. Also included are areas such as human behavior (normal and abnormal), personality theory, and learning theory. (7-1-93)

(2) Social and cultural foundations: Includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural mores, use of leisure time, and differing life patterns. (7-1-93)

(3) The helping relationship: Includes philosophic bases of the helping relationship: Consultation theory and/or an emphasis on the development of counselor and client (or consultee) self-awareness and self-understanding. (7-1-93)

(4) Groups: Includes theory and types of groups, as well as descriptions of group practices, methods dynamics, and facilitative skills. It includes either a supervised practice and/or a group experience. (7-1-93)

(5) Life-style and career development: Includes areas such as vocational-choice theory, relationship between career choice and life-style, sources of occupational and educational information, approaches to career decision-making processes, and career-development exploration techniques. (7-1-93)

(6) Appraisal of the individual: Includes the development of a framework for understanding the individual, including methods of data gathering and interpretation, individual and group testing, case-study approaches and the study of individual differences. Ethnic, cultural, and sex factors are also considered. (7-1-93)

(7) Research and evaluation: Includes areas such as statistics, research design, and development of research and demonstration proposals. It also includes understanding legislation relating to the development of research, program development, and demonstration proposals, as well as the development and evaluation of program objectives. (7-1-93)

(8) Professional orientation: Includes goals and objectives of professional counseling organizations, codes of ethics, legal consideration, standards of preparation, certification, and licensing and role of identity of

counselors. (7-1-93)

b. A total of at least sixty (60) graduate semester hours or ninety (90) graduate quarter hours shall be required. (7-1-93)

c. Advanced counseling practicum shall be practica taken at the graduate school level. (7-1-93)

d. A graduate degree shall be one of the following beyond the baccalaureate level: The master's degree, the educational specialist certificate or degree, or the doctor's degree. (7-1-93)

e. An accredited university or college shall be a college or university accredited by one (1) of the following: the Middle States Association of Colleges and ~~Secondary~~ Schools, the New England ~~State~~ Association of ~~Colleges and Secondary~~ Schools and Colleges, the North Central Association of Colleges and ~~Secondary~~ Schools, the Northwest Association of ~~Colleges and Secondary~~ Schools and of Colleges and Universities, the Southern Association of Colleges and ~~Secondary~~ Schools, or the Western ~~College~~ Association of Schools and Colleges.
(7-1-93)()

02. Supervised Experience Requirement. One thousand (1,000) hours of supervised experience in counseling acceptable to the Board. (7-1-93)

a. One thousand (1,000) hours is defined as one thousand (1,000) clock hours of experience working in a counseling setting, four hundred (400) hours of which shall be direct client contact. Supervised experience in practica and/or internships taken at the graduate level may be utilized. The supervised experience shall include a minimum of one (1) hour of face-to-face or one-to-one (1/1) or one-to-two (1/2) consultation with the supervisor for every twenty (20) hours of job/internship experience. Face-to-face may include a face-to-face setting provided by a live video connection between the supervisor and supervisee. As stated under Subsection 150.01.a.iv. counseling practicum experience as opposed to job or internship experience shall be supervised at a ratio of one (1) hour of supervision for every ten (10) hours in the settings. For example: (3-30-06)

i. A person in a twenty (20) hour per week job/internship who is receiving one (1) hour of individual supervision each week would accumulate one thousand (1,000) supervised hours in fifty (50) weeks to equal the twenty to one (20/1) ratio. (7-1-93)

ii. A person in a forty (40) hour per week setting with one (1) hour of supervision per week would still require fifty (50) weeks to equal the twenty to one (20/1) ratio. (7-1-93)

iii. A person in a forty (40) hour per week setting with two (2) hours of supervision per week would accumulate the one thousand (1,000) hours at the twenty to one (20/1) supervision ratio in twenty-five (25) weeks. (7-1-93)

b. Until July 1, 2004, the supervision must be provided by a Professional Counselor or a Clinical Professional Counselor licensed by the state of Idaho. Effective July 1, 2004, postgraduate supervision must be provided by a Professional Counselor, a Clinical Professional Counselor or a Marriage and Family Therapist licensed by the state of Idaho and registered with the Board as a Supervisor. If the applicant's supervision was provided in another state, it must have been provided by a counseling professional licensed by that state, provided the requirements for licensure in that state are substantially equivalent to the requirements of Title 54, Chapter 34, Idaho Code. If supervision was obtained prior to July 1, 1988, or in a state that does not regulate counseling, that supervision must have been provided by a qualified counselor educator as a part of a planned graduate program or by a person who holds a graduate degree beyond the baccalaureate level who is certified and/or licensed as a counselor, social worker, psychologist, or psychiatrist. Supervision by an administrative superior who is not in a counseling related profession is not acceptable to the Board. Supervision by a professional counseling peer, however, may be acceptable to the Board if the peer/supervisory relationship includes the same controls and procedures expected in an internship setting. (See Subsection 150.02.a.) For example, the relationship should include the staffing of cases, the critiquing of counseling tapes and this supervision must be conducted in a formal, professional, consistent manner on a regularly scheduled basis. (3-30-06)

c. Experience in counseling is defined as assisting individuals or groups, through the counseling

relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting interests, abilities, aptitudes, and needs as related to personal-social concerns, educational progress, and occupations and careers. Counseling experience may include the use of appraisal instruments, referral activities, and research findings. (7-1-93)

d. The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

238. MARRIAGE AND FAMILY THERAPISTS (RULE 238).

The following requirements must be met for marriage and family therapist licensure: (3-13-02)

01. Graduate Degree. Possess a graduate degree as outlined in Section 54-3405C(1), Idaho Code. (3-13-02)

02. Practicum. Must meet the requirements as outlined in Section 54-3405C(2), Idaho Code. (3-13-02)

03. Supervised Marriage and Family Therapy Experience. Must meet the three thousand (3,000) hour requirement as outlined in Section 54-3405C(3), Idaho Code. Effective July 1, 2004, a Marriage and Family Therapist must be registered with the Board to provide post graduate supervision. (4-2-03)

a. A minimum of two thousand (2,000) postgraduate direct client contact hours, in no less than a two (2) year time period shall include; (3-13-02)

i. A minimum one thousand (1,000) direct client contact hours with couples and families; and (3-13-02)

ii. Two hundred (200) hours of supervision. (3-13-02)

b. Supervision ~~must~~ may be obtained from a registered marriage and family therapist supervisor, ~~or~~ Supervision may also be obtained from a licensed clinical professional counselor registered with the Board, licensed psychologist, licensed clinical social worker registered with the Board of Social Work Examiners, or licensed psychiatrist who documents: (~~3-30-07~~)(____)

i. A minimum of five (5) years of experience providing marriage and family therapy; and (3-20-04)

ii. Fifteen (15) contact hours of education in supervisor training; and (3-20-04)

iii. Has not been the subject of any disciplinary action for five (5) years immediately prior to providing supervision. (3-20-04)

c. No more than one hundred (100) hours of group supervision shall be allowed. Group supervision shall be defined as no more than six (6) supervisees per each supervisor; and (3-13-02)

d. Individual supervision is defined as up to two (2) supervisees per supervisor; and (3-13-02)

e. Supervision must employ the use of audio technologies or video technologies or co-therapy, or live supervision; and (3-13-02)

f. In accordance with the adopted Codes of Ethics prohibiting dual relationships, a supervisor shall not act as an applicant's personal Professional Counselor/Therapist. (3-13-02)

g. The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

04. Examination. (3-13-02)

a. The Board requires successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (3-13-02)

b. The examination will be conducted at a time and place specified by the Board. (3-13-02)

c. Successful passage of the examination is defined by the Board as achievement of the passing score set by the AMFTRB. Reexamination shall consist of the entire examination. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

245. REGISTERED INTERNS (RULE 245).

An individual pursuing Idaho licensure as a Professional Counselor may register with the Board as an Intern. An individual pursuing Idaho licensure as a Marriage and Family Therapist shall register prior to commencement of supervised experience with the Board as an Intern in compliance with section 54-3402, Idaho Code. ~~(4-2-03)~~()

01. Requirements for Registration. (4-2-03)

a. Possess a graduate degree in counseling, marriage and family therapy, or a closely related field from an accredited university or college. (4-2-03)

b. Be actively pursuing postgraduate supervised experience. (4-2-03)

c. Designate a supervisor who is registered as a supervisor or who is otherwise approved to provide marriage and family therapy supervision as defined in Section 54-3405C, Idaho Code, and who shall be responsible to provide supervision. (3-20-04)

02. Registration. An individual applying for registration as a Counselor Intern or Marriage and Family Therapist Intern shall fully complete the application form as established by the Board and submit the designated fee as adopted by Board rule. (4-2-03)

03. Practice. (4-2-03)

a. A Registered Intern may only practice counseling or marriage and family therapy under the direct supervision of a Counselor Supervisor or Marriage and Family Therapist Supervisor who shall be responsible to ensure that a Registered Intern is competent to practice such counseling or marriage and family therapy as may be provided. (4-2-03)

b. Only a Registered Intern may use the title Counselor Intern or Marriage and Family Therapist Intern. (4-2-03)

c. An individual shall not practice as an intern for more than four (4) years from the original date of registration. (4-2-03)

246. -- 249. (RESERVED).

250. FEES (RULE 250).

01. Application Fee. Application fee: (7-1-97)

- a. Professional Counselor -- seventy-five dollars (\$75). (3-13-02)
- b. Clinical Professional Counselor -- seventy-five dollars (\$75). (3-13-02)
- c. Marriage and Family Therapist -- seventy-five dollars (\$75). (3-13-02)
- d. Intern Registration -- twenty-five dollars (\$25). (4-2-03)

02. Professional Counselor and Marriage and Family Therapist Examination or Reexamination Fee. The Professional Counselor and Marriage and Family Therapist license examination or reexamination fee shall be the fee as set by the provider of the approved examination plus an administration fee of twenty-five dollars (\$25). (3-30-06)

03. Original License Fee. Original license fee for Professional Counselor or Clinical Professional Counselor or Marriage and Family Therapist -- seventy-five dollars (\$75). (4-6-05)

04. Annual Renewal Fee. Annual license renewal fee for Professional Counselor, Clinical Professional Counselor, or Marriage and Family Therapist -- one hundred dollars (\$100). (3-19-07)

05. Annual Renewal Fee for Inactive License. Annual license renewal fee for inactive Professional Counselor, Clinical Professional Counselor, or Marriage and Family Therapist -- fifty dollars (\$50). ()

06. Annual Renewal Fee for Senior Status. Annual license renewal fee for senior Professional Counselor, Clinical Professional Counselor, or Marriage and Family Therapist -- sixty dollars (\$60). ()

057. Fees are Non-Refundable. All fees are non-refundable. (7-1-93)

251. -- 299. (RESERVED).

300. ENDORSEMENT (RULE 300).

The Board may grant a license to any person who submits a completed application on a form approved by the board together with the required fees and who: (3-13-02)

01. Holds a Current License. The applicant must be the holder of a current active license, in the profession for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the board from the issuing agency; and (3-13-02)

02. Has Not Been Disciplined. The applicant must certify they have not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and (3-13-02)

03. Is of Good Moral Character. The applicant must certify they are of good moral character and have not been convicted, found guilty, or received a withheld judgment or suspended sentence for any felony; and (3-13-02)

04. Has Documented Experience. The applicant must provide a documented record of at least five (5) years actual practice under licensure immediately prior to application in the profession for which a license is being sought, or can demonstrate hardship or extenuating circumstances that prohibited practice during a portion of the five (5) year period as determined by the board; and (3-13-02)

05. Will Abide by Laws, Rules and Code of Ethics. The applicant must certify under oath to abide by the laws and rules governing the practice of counseling and marriage and family therapy in Idaho and the applicable code of ethics as adopted; and either (3-30-07)

06. National Credential Registry. If applicant has been granted credentials by the American Association of State Counseling Boards as qualifying for Category II of the national credential registry or any such similar qualification granted by a national credentialing entity otherwise approved by the Board; or (3-30-07)

- 07. Provides Information.** The applicant must document at least three (3) of the following during the five (5) years immediately prior to application: (3-13-02)
- a.** A minimum of one thousand (1,000) hours client contact; (3-13-02)
 - b.** Service as an officer of a state or national counseling or marriage and family therapy organization, or a member of a state or national counseling or marriage and family therapy board or committee, or other leadership positions as may be approved by the Board; (3-13-02)
 - c.** Teaching at least three (3) graduate courses for credit at an accredited college or university; (3-13-02)
 - d.** A certificate to supervise issued by the NBCC or AAMFT; (3-13-02)
 - e.** Providing at least twelve (12) months of supervision to each of no less than three (3) persons seeking licensure; (3-13-02)
 - f.** Maintained professional liability insurance for the previous five (5) years with proof of no claims filed; (3-13-02)
 - g.** Obtained a post graduate degree in a field of study related to counseling or marriage and family therapy that is in addition to the minimum licensure requirements; (3-13-02)
 - h.** Current certification by a national credentialing entity as approved by the Board in the discipline for which licensure is sought; (3-13-02)
 - i.** ~~Twenty (20)~~ A total of one hundred (100) hours of continuing education *per year for* completed in the five (5) years immediately prior to application. (~~3-13-02~~)()

(BREAK IN CONTINUITY OF SECTIONS)

351. -- 359. (RESERVED).

360. INACTIVE STATUS (RULE 360).

- 01. Request for Inactive Status.** Each person requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. ()
- 02. Inactive License Status.** ()
- a.** All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. ()
 - b.** Inactive license renewal notices and licenses will be marked "Inactive." ()
 - c.** When the licensee desires active status, he must show acceptable fulfillment of continuing education requirements for the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee. ()
 - d.** Licensees shall not practice in Idaho as a Professional Counselor, Clinical Professional Counselor or a Marriage and Family Therapist while on inactive status. ()

361. -- 374. (RESERVED).

375. SENIOR STATUS (RULE 375).

01. Request for Senior Status. Each person having attained the age of sixty-five (65) and requesting a senior status during the renewal of their active license must submit a written request and pay the established fee. ()

02. Continuing Education. Continuing education must be completed annually per Section 425 of this rule. ()

376. -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

425. CONTINUING EDUCATION (RULE 425).

Every person holding an Idaho license as a Professional Counselor, Clinical Professional Counselor or a Marriage and Family Therapist must annually complete twenty (20) contact hours of continuing education prior to license renewal. (3-30-06)

01. Contact Hours. The contact hours of continuing education shall be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. No less than three (3) contact hours for each renewal period shall be in ethics. (3-30-06)

02. Documentation of Attendance. It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the applicant. This documentation must be maintained by the applicant and provided to the Board upon request by the Board or its agent. (4-2-03)

03. Excess Hours. Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date may be applied toward meeting the continuing education requirement for the next license renewal. No more than five (5) hours in excess of the required twenty (20) hours shall be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (4-2-03)

04. Compliance Audit. The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action in accordance with section 54-3407, Idaho Code. (4-2-03)

05. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. There is no continuing education required of those holding a current inactive license. (~~4-6-05~~)()

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES

24.16.01 - RULES OF THE STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-0701

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(s) 54-3309, 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 October 17, 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:

To limit the length of an internship and create a standard for advertisements to ensure public safety.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes should not be controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 23rd day of August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1601-0701

300. INTERNSHIP (RULE 300).

01. Requirements and Conditions for Internship.

(3-10-00)

- a. To be eligible for internship the applicant must have completed: (3-10-00)
 - i. The educational requirements set forth in Section 54-3310(b), Idaho Code; or (3-10-00)
 - ii. Have dentistry experience of three (3) years within the five (5) years immediately preceding application. (3-10-00)
- b. Where an internship is established based on experience, the internship is valid only while the intern is actively pursuing completion of Idaho licensure requirements. (3-10-00)
- c. Application shall be made on forms provided by the Bureau of Occupational Licenses and shall: (3-10-00)
 - i. Document the location of practice; (3-10-00)
 - ii. Include the name and address of the supervising dentist or dentist; (3-10-00)
 - iii. Include a sworn or affirmed statement by the supervising dentist or dentist; (3-10-00)
 - iv. Include a sworn or affirmed statement by the supervisor accepting supervision of the intern; (3-10-00)
 - v. Include a sworn statement by applicant that he is knowledgeable of law and rules and will abide by all requirements of such law and rules; and (3-10-00)
 - vi. Include such other information necessary to establish applicant's qualifications for licensure as a dentist and establish compliance with pre-intern requirements. (3-10-00)
- d. Two (2) years of internship under the supervision of a licensed dentist shall be completed in not less than twenty-four (24) months and shall not exceed thirty (30) months except as approved by the board. ()

02. Internship Equivalency. A person shall be considered to have the equivalent of two (2) years internship under a licensed dentist who has met and verifies one (1) of the following within the five (5) years immediately preceding application: (3-10-00)

- a. Two (2) years internship as a denture lab technician under a licensed dentist; or (3-10-00)
- b. Two (2) years in the military as a denture lab technician; or (3-10-00)
- c. Three (3) years experience as a dentist under licensure in another state or Canada. (3-10-00)

03. Internship Not to Exceed One Year. Internship not to exceed one (1) year acquired through a formal training program in an acceptable school will be accepted toward the two (2) year required internship for licensure. (7-1-93)

04. Training Requirements. Each year of required internship shall consist of two thousand (2,000) clock hours of training and performance of the following minimum procedures for licensure. (7-1-93)

- a. Procedures shall include all steps required in constructing a finished denture but are not limited to the following: (7-1-93)
 - i. Patient charting -- thirty-six (36) minimum. (7-1-93)
 - ii. Operatory sanitation -- thirty-six (36) minimum. (7-1-93)
 - iii. Oral examination -- thirty-six (36) minimum. (7-1-93)

- iv. Impressions, preliminary and final (pour models, custom trays) -- thirty-six (36) minimum. (7-1-93)
 - v. Bite registrations -- twelve (12) minimum. (7-1-93)
 - vi. Articulations -- twelve (12) minimum. (7-1-93)
 - vii. Set ups -- twelve (12) minimum. (7-1-93)
 - viii. Try ins -- twelve (12) minimum. (7-1-93)
 - ix. Processing (wax up, flask-boil out, packing, grind-polish) -- thirty-six (36) minimum. (7-1-93)
 - x. Delivery-post adjustment -- thirty-six (36) minimum. (7-1-93)
 - b.** Processed relines (one (1) plate = one (1) unit) -- twenty-four (24) units. (7-1-93)
 - c.** Tooth repairs -- forty-eight (48) minimum. (7-1-93)
 - d.** Broken or fractured plates or partials -- forty-eight (48) minimum. (7-1-93)
- 05. Reporting Requirements.** Interns must file reports, attested to by the supervisor, with the board on forms provided by the Bureau of Occupational Licenses on a monthly basis and recapped at termination or completion of the training. (7-1-93)
- 06. Denture Clinic Requirements.** Denture clinic requirements for approved internship training: (7-1-93)
- a.** There shall be not more than one (1) internee per licensed denturist or dentist who is practicing at the clinic on a full time basis. (7-1-93)
 - b.** There shall be a separate work station in the laboratory area for each intern with standard equipment, i.e. lathe, torch and storage space. The intern shall provide necessary hand tools to perform the duties of the denture profession. Use of the operatory facilities and other equipment will be shared with the intern. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

450. STANDARDS OF CONDUCT AND PRACTICE (RULE 450).

- 01. Sanitation.** (7-1-93)
 - a.** There shall be three (3) separate rooms; a reception room, and operatory room and a laboratory. (7-1-93)
 - b.** The operatory room shall have hot and cold running water, basin with approved disposal system; disinfectant soap; single-use towels, a cuspidor with running water and a closed waste receptacle. (8-24-94)
 - c.** The laboratory room shall have hot and cold running water, and basin with approved disposal system. (8-24-94)
 - d.** There shall be a method of sterilization and disinfection evident and in use to insure the protection of the public. (8-24-94)

- e. All floors, walls, ceiling and benches shall be kept in a sanitary condition at all times. (8-24-94)
- f. Every patient shall have a separate and clean bib and a disposable cup. (7-1-93)
- g. Every denturist shall wear a clean and professional garment. (7-1-93)
- h. The hands of every denturist shall be washed in the presence of every patient with germicidal or antiseptic soap and water. Every denturist shall wear disposable gloves. (8-24-94)
- i. Adequate and conveniently located toilet facilities with hot and cold running water, basin with approved disposal system, soap and single use towels will be provided within the building. (8-24-94)
- j. All denturist offices shall be open to inspection anytime during the business hours to inspection by the board or its agents. (7-1-93)
- k. All telephones must have emergency phone numbers placed on the telephone. (7-1-93)
- 02. Office Standards.** (7-1-93)
- a. Denturists shall take care to use proper sterilization and sanitation techniques in all phases of their work. (7-1-93)
- b. A complete record of each patient shall be kept. (7-1-93)
- c. All teeth and materials used shall meet ADA standards. (7-1-93)
- 03. Advertisements.** ()
- a. No denturist shall disseminate or cause the dissemination of any advertisement or advertising which is any way fraudulent, false, deceptive or misleading.** ()
- 034. General Conditions.** (7-1-93)
- a. Conditions deemed by investigators to be a menace to the public health will be brought to the attention of the board for consideration and immediate action. (7-1-93)
- b. These Standards of Conduct and Practice shall be conspicuously posted in every licensed denturist's place of business. (7-1-93)

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES

24.17.01 - RULES OF THE IDAHO STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-0701

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(s) 54-4705, 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 October 17, 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 define accredited college or university and clarify requirements for certification due to statute changes during the 2007 legislative session.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the clarification is due to statute changes during the 2007 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1701-0701

010. DEFINITIONS (RULE 10).

01. Board. The State Board of Acupuncture as prescribed in Section 54-4704, Idaho Code. (3-10-00)

- 02. Technician Certificate.** The category of license granted to a qualified applicant who meets the requirements pursuant to Section 54-4708, Idaho Code. (3-30-01)
- 03. Certification.** The category of license granted to a qualified applicant who meets the requirements pursuant to Section 54-4707, Idaho Code. (3-30-01)
- 04. License.** Any license, certification or technician certificate issued to a qualified applicant pursuant to IDAPA 24.17.01, "Rules of the State Board of Acupuncture," promulgated by the Board, permitting said applicant to practice acupuncture in the state of Idaho. (3-10-00)
- 05. Practitioner.** A person to whom a license, certification or technician certificate has been issued pursuant to Title 54, Chapter 47, Idaho Code. (3-30-01)
- 06. Licensure/Licensed.** The category of license granted to a qualified applicant who meets the requirements pursuant to Section 54-4706, Idaho Code. (3-30-01)
- 07. Approved Acupuncture Program.** A formal full-time acupuncture educational program that has met the standards of the Accreditation Commission for Acupuncture and Oriental Medicine or an equivalent educational body. An acupuncture program may be established as having satisfied this requirement by obtaining: (3-30-01)
- a.** Accreditation; or (3-30-01)
 - b.** Candidacy for accreditation; or (3-30-01)
 - c.** An equivalent evaluation performed by a private, state government, or foreign government agency recognized for that purpose by the NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) Eligibility Committee. (3-30-01)
- 08. Didactic Course Work.** Educational instruction in acupuncture that is physically obtained in a classroom or laboratory setting, and when such instruction is obtained from, and in the presence of, a person credentialed as a qualified educator of acupuncture. (3-30-01)
- 09. Clinical Practice.** Practical experience in acupuncture that is physically obtained in a health care facility in order to meet the minimum requirements for licensure or certification. (3-30-01)
- 10. Bureau.** The Bureau of Occupational Licenses as prescribed in Sections 54-4705 and 67-2602, Idaho Code. (5-3-03)
- 11. Accredited College or University.** An accredited college or university is a college or university accredited by an accrediting organization approved by the U.S. Department of Education. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. QUALIFICATIONS FOR LICENSURE (RULE 200).

- 01. Requirements for Licensure.** Applicants for licensure shall submit a complete application, required fee, and official certified documentation of either: (3-30-01)
- a.** Certification from NCCAOM; or (5-3-03)
 - b.** Graduation from an approved formal full-time acupuncture program of at least one thousand seven hundred twenty-five (1,725) hours of entry-level acupuncture education which includes a minimum of one thousand (1000) hours of didactic course work and five hundred (500) clinical hours practice; and (3-30-01)

c. Successful completion of an acupuncture internship, or other equivalent experience as approved by the Board; and (3-30-01)

d. Receipt of a passing grade on an NCCAOM Acupuncture certification examination; or (3-30-01)

e. Other demonstration of proficiency as uniformly required by the Board for other similarly qualified applicants for licensure; and (3-30-01)

f. Successful completion of a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. (3-30-01)

02. Requirements for Certification. Applicants for certification shall submit a complete application, required fee and official certified documentation of either: (3-30-01)

a. Successful passage of an examination or other demonstration of proficiency as approved by the board; and ()

~~**b.** Successful completion of the requirements for full membership of the American Academy of Medical Acupuncture or fellowship of the International Academy of Medical Acupuncture, Inc.; or (3-30-01)~~()

c. Possess a doctoral degree in chiropractic, dentistry, podiatric medicine, or naturopathic medicine from a college or university accredited by an organization approved by the U.S. Department of Education or Idaho State Board of Education; and ()

~~**d.** Successful completion of a minimum of one hundred (100) hours of didactic course work, two hundred (200) hours of practice as a certified technician over a one (1) year period, twenty-five (25) case studies; and (3-30-01)~~

~~**ee.** Receipt of a passing grade on a board approved examination that measures minimum competency; or and (3-30-01)~~()

~~**d.** Other demonstration of proficiency as uniformly required by the Board for other similarly qualified applicants for certification; and (3-10-00)~~

~~**ef.** Successful completion of a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. (3-30-01)~~

03. Requirements for Acupuncture Technician Certificate. Applicants for Acupuncture technician Certificate shall submit a complete application, required fee, and official certified documentation of either: (3-30-01)

a. Successful completion of the requirements for clinical technician certificate from the International Academy of Medical Acupuncture, Inc.; or (3-10-00)

b. Successful completion of a minimum of one hundred (100) hours of didactic course work within one (1) academic year; and (3-30-01)

c. Successful completion of a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements; and (3-30-01)

d. Receipt of a passing grade on a board approved examination leading to an Acupuncture Technician Certificate, or other demonstration of proficiency as may be uniformly required for other similarly qualified applicants as approved by the Board. (3-30-01)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 29, 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) 54-4106, Idaho Code, and Title XI, federal 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 October 17, 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:

Changes will allow applicants currently working on the qualifications for licensure time to come into compliance with the new federal standards. Remove a section that is duplicated and clarify continuing education in compliance with federal requirements.

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: Federal requirements under Title XI will change effective January 1, 2008. This change will allow those currently working toward licensure time to come into compliance with the new standards.

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 changes are required to meet federal standards under Title XI.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

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 October 24, 2007.

DATED this 29th day August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-0701

010. DEFINITIONS (RULE 10).

The definitions numbered one through twelve (1-12), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. (7-1-93)

01. Advisory Committee. A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

02. Appraisal Foundation. The Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois. (7-1-97)

03. Appraiser Qualifications Board. Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

04. Appraisal Standards Board. The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

05. Bureau. The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-4106(2)(a) and 67-2601, Idaho Code. (3-13-02)

06. Chief. The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-93)

07. Classroom Hour. Fifty (50) minutes out of each sixty (60) minute hour. (7-1-93)

08. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgement, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (4-6-05)

09. FIRREA. Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989 was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (7-1-93)

10. Nationally Recognized Appraisal Organization. An appraisal organization which is a *member sponsor* of The Appraisal Foundation. (~~7-1-93~~)(8-29-07)T

11. Real Estate. In addition to the previous definition in Section 54-4104(7), Idaho Code will also mean an identified parcel or tract of land, including improvements, if any. (7-1-93)

12. Real Property. In addition to the previous definition in Section 54-4104(8), Idaho Code will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (7-1-93)

13. Residential Unit. Real estate with a current highest and best use of a residential nature. (7-1-93)

14. Specialized Appraisal Services. Services which include situations in which an appraiser is employed or retained to provide appraisal services that do not fall within the defined term "appraisal assignments." Specialized appraisal services relate to the employer's or client's individual needs or investment objectives and commonly include specialized marketing and financing studies as well as analysis, opinions, and conclusions

rendered in connection with activities such as real estate brokerage, mortgage banking, and real estate counseling, including real estate tax counseling. (7-1-97)

15. Uniform Standards of Professional Appraisal Practice or USPAP. Those uniform standards adopted by the Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. (3-13-02)

16. USPAP Course. For the purposes of licensure and license renewal, any reference to the approved USPAP course shall mean the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP Instructors and Educational Providers. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

250. REQUIREMENTS FOR LICENSURE (RULE 250).

All applicants for licensure in any real estate appraiser classification must comply with the following education, experience and examination requirements in addition to meeting those requirements set forth in Sections 275, 300, 350, and 400 below. (4-11-06)

01. Education. If an individual has completed the education requirements on or before December 31, 2007, the individual must submit a complete application to the board before January 1, 2011. If an individual has not completed their educational requirement on or before December 31, 2007, or submits an application on January 1, 2011 or later, the individual must complete the educational requirements which became effective January 1, 2008 and any subsequent requirements adopted prior to the individual's application date. Effective July 1, 2006, hHours will be credited only for courses with content that follows the Required Core Curriculum as outlined by the Appraisal Qualification Board. ~~(4-11-06)~~(8-29-07)T

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes a closed-book examination pertinent to the educational offering. (4-11-06)

b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

iii. Courses approved by the Appraisal Qualifications Board. ~~(8-20-04)~~(8-29-07)T

iv. State or Federal Agencies or Commissions. (7-1-97)

v. Other providers approved by the Board. (7-1-97)

c. Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)

d. Course credits that are obtained from the course provider by challenge examination without attending the course will not be accepted. (4-11-06)

e. Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of those topics listed in Subsection 250.01.e. that are required for the license classification for which application is being made. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (4-11-06)

- i. Basic appraisal principles. (4-11-06)
 - ii. Basic appraisal procedures. (4-11-06)
 - iii. The fifteen (15) hour national USPAP course. (4-11-06)
 - iv. Market analysis and highest and best use. (4-11-06)
 - v. Appraiser site valuation and cost approach. (4-11-06)
 - vi. Sales comparison approach. (4-11-06)
 - vii. Sales income approach. (4-11-06)
 - viii. Report writing and case studies. (4-11-06)
 - ix. Statistics, modeling and finance. (4-11-06)
 - x. Advanced applications and case studies. (4-11-06)
 - xi. Appraisal subject matter electives. (4-11-06)
 - f.** Advanced courses will be those courses for which an introductory or basic course is required as a prerequisite. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements. (4-11-06)
- 02. Experience.** (7-1-97)
- a.** The work product claimed for experience credit must be in conformity with the USPAP or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (3-13-02)
 - b.** All appraisal experience must be obtained as a registered trainee or as a licensed appraiser. (4-11-06)
 - c.** Only experience gained during the five (5) years immediately preceding application will be considered for evaluation. (4-11-06)
 - d.** Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (4-11-06)
 - e.** Each applicant applying for licensure must verify completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (4-11-06)
 - i. The Board requires submission of a log that details hours claimed for experience credit. The log must include the type of property, address of the property, report date, description of work performed, and number of work hours. (4-11-06)
 - ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)
 - iii. The Board may request submission of written reports or file memoranda that substantiate an applicant's claim for experience credit. (4-11-06)
 - f.** Ad valorem tax appraisers must demonstrate the use of techniques to value properties similar to

those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience in order to receive experience credit. (4-11-06)

03. Examination. Successful completion of an examination appropriate to the license classification being applied for and approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

276. -- 2989. (RESERVED).

~~299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (RULE 299).~~

~~All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections 300, 350, and 400 below. All applicants for trainee registration must meet the following requirements regarding education set forth in Section 299 in addition to those requirements set forth in Section 430. (3-13-02)~~

~~**01. Examination.** Successful completion of an examination approved by the Board pursuant to the guidelines of the Appraisal Foundation. (7-1-97)~~

~~**02. Education.** (7-1-97)~~

~~**a.** Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering. (7-1-97)~~

~~**b.** Credit for the classroom hour requirement may be obtained from the following: (7-1-97)~~

~~**i.** Colleges or Universities. (7-1-97)~~

~~**ii.** Community or Junior Colleges. (7-1-97)~~

~~**iii.** Courses approved by the Appraisal Qualifications Board. (3-30-07)~~

~~**iv.** State or Federal Agencies or Commissions. (7-1-97)~~

~~**v.** Other providers approved by the Board. (7-1-97)~~

~~**e.** Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)~~

~~**d.** Course credits which are obtained from the course provider by challenge examination without attending the course will not be accepted. (3-18-99)~~

~~**e.** Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (7-1-97)~~

~~**i.** Influences on Real Estate Value. (7-1-97)~~

~~**ii.** Legal Considerations in Appraisal. (7-1-97)~~

~~**iii.** Types of Value. (7-1-97)~~

- ~~iv. Economic Principles. (7-1-97)~~
- ~~v. Real Estate Markets and Analysis. (7-1-97)~~
- ~~vi. Valuation Process. (7-1-97)~~
- ~~vii. Property Description. (7-1-97)~~
- ~~viii. Highest and Best Use Analysis. (7-1-97)~~
- ~~ix. Appraisal Statistical Concepts. (7-1-97)~~
- ~~x. Sales Comparison Approach. (7-1-97)~~
- ~~xi. Site Value. (7-1-97)~~
- ~~xii. Cost Approach. (7-1-97)~~
- ~~xiii. Income Approach. (7-1-97)~~
- ~~xiv. Valuation of Partial Interests. (7-1-97)~~
- ~~xv. Appraisal Standards and Ethics. (7-1-97)~~
- ~~f. Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements. (7-1-97)~~
- ~~03. Experience. (7-1-97)~~
 - ~~a. The work product claimed for experience credit must be in conformity with the USPAP or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (3-13-02)~~
 - ~~b. On or after July 1, 2003, appraisal experience must be obtained as a registered trainee or as a licensed or certified appraiser. A year of experience is equal to a minimum of one thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. (3-13-02)~~
 - ~~c. Only experience gained during the five (5) years preceding application will be considered for evaluation. (7-1-97)~~
 - ~~d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (3-18-99)~~
 - ~~e. An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (7-1-97)~~
 - ~~i. To demonstrate experience the Board requires submission of a log which details hours claimed for experience credit. (7-1-97)~~
 - ~~ii. The Board reserves the right to contact an employer for confirmation of length and extent of~~

~~experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)~~

~~iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (7-1-97)~~

~~f. Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (7-1-97)~~

(BREAK IN CONTINUITY OF SECTIONS)

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 350).

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being certified every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. Prior to January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred twenty (120) classroom hours of courses in subjects related specifically to real estate appraisal that have been approved by the board. Each applicant must have successfully completed not less than ninety (90) classroom hours of study related to those topics outlined under Subsection 250.01.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; will be credited to the classroom hour requirement. Beginning on January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall: (3-30-07)

a. Hold an Associate Degree or higher from an accredited college or university or document successful completion of no less than twenty-one (21) college semester credit hours in English Composition, Principles of Economics (micro or macro), Finance, Algebra, Geometry or higher mathematics, Statistics, ~~Introduction to Computers~~ Science, and Business or Real Estate Law; and (4-11-06)(8-29-07)T

b. Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser or hold a current license as a Licensed Residential Real Estate Appraiser; and (4-11-06)

c. Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

i. Statistics, Modeling and Finance - not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (4-11-06)

ii. Advanced Residential Applications and Case Studies - not less than fifteen (15) hours specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and (4-11-06)

iii. Appraisal Subject Matter Electives - not less than twenty (20) hours and may include hours over the minimum shown in Subsection 350.01.c. (4-11-06)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document two thousand five hundred (2,500) hours of appraisal experience in no less than twenty-four (24) months (see Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. Two thousand (2,000) hours of the experience shall be from residential field appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 250.02.d. (4-11-06)

351. -- 399. (RESERVED).

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section ~~299~~50. Subsequent to being certified, an individual must meet the continuing education requirement.

~~(7-1-97)~~(8-29-07)T

01. Education. Prior to January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho State Certified General Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than one hundred sixty (160) classroom hours of study related to those topics outlined under Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; and one hundred (100) classroom hours of advanced non residential specialized courses relating to the topics specified at Subsection 250.01.e. Beginning on January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Certified General Real Estate Appraiser, each applicant shall: (3-30-07)

a. Hold a Bachelors Degree or higher from an accredited college or university or document successful completion of no less than thirty (30) college semester credit hours in English Composition, Micro Economics, Macro Economics, Finance, Algebra, Geometry or higher mathematics, Statistics, ~~Introduction to~~ Computers ~~Science~~, and Business or Real Estate Law, and two (2) elective courses in accounting, geography, ageconomics, business management, or real estate; and ~~(4-11-06)~~(8-29-07)T

b. Document registration as an Appraiser Trainee or licensure as a Licensed Residential Real Estate Appraiser or licensure as a Certified Residential Real Estate Appraiser; and (4-11-06)

c. Document the successful completion of not less than two hundred ten (210) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

i. Statistics, Modeling and Finance - not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (4-11-06)

ii. General Appraiser Market Analysis and Highest and Best Use - not less than thirty (30) hours; and (4-11-06)

iii. General Appraiser Sales Comparison Approach - not less than thirty (30) hours specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (4-11-06)

iv. General Appraiser Site Valuation and Cost Approach - not less than thirty (30) hours; and (4-11-06)

v. General Appraiser Income Approach - not less than sixty (60) hours specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (4-11-06)

vi. General; Appraiser Report Writing and Case Studies - not less than thirty (30) hours specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. (4-11-06)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document three thousand (3,000) hours of appraisal experience in no less than thirty (30) months (See Subsection 250.02.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. One thousand five hundred (1,500) hours of the experience must be nonresidential appraisal experience. The balance of one thousand five hundred (1,500) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 250.02.d. (4-11-06)

401. CONTINUING EDUCATION (RULE 401).

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of fifteen (15) classroom hours of instruction in courses or seminars during each year prior to renewal is required. (3-20-04)

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (7-1-93)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualification Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (4-6-05)

d. Once every two (2) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend an approved seven (7) hour USPAP update course or the equivalent. (3-30-07)

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. ~~(7-1-97)~~(8-29-07)T

04. Credit for Attending the Licensure Board Meetings. Continuing education credit may be granted ~~once each year~~ for a maximum of two (2) hours each renewal period for time spent attending one (1) Board meetings of no less than two (2) hours. Members of the board shall not be entitled to continuing education credit for board service. ~~(3-30-07)~~(8-29-07)T

05. Requirement When a Certificate/License Is Cancelled. For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be documented, including a seven (7) hour USPAP update course, prior to reinstatement. (3-30-07)

IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES

24.22.01 - RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-0701

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(s) 54-5310, 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 October 17, 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:

Add dated edition for NFPA 58 incorporated by reference, add requirement for certification of general liability insurance as application requirement and create a section for general liability insurance requirements per statute passed during the 2007 session, and clarify the inspection rules.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the insurance requirement is necessary to comply with statute change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of August, 2007.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2201-0701

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled National Fire Protection Association Code 58, 2004 Edition, commonly known as NFPA 58, is herein incorporated by reference and is available ~~from at~~ the Board's office ~~and on the Board web site.~~

(3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

350. FACILITY LICENSURE (RULE 350).

01. Facility Licensure and Operation Requirements. (3-30-06)

a. Application for a facility license shall be made on forms available from the Bureau and shall include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications shall be submitted to the Board for approval and a license must be issued before a new facility may open for business; ~~(3-30-06)~~(____)

b. Each facility application shall clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; (3-30-06)

c. Each facility shall meet all requirements of NFPA 58. (3-30-06)

02. Facility Changes in Ownership or Location. (3-30-06)

a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. **FACILITY LICENSES ARE NOT TRANSFERABLE.** (3-30-06)

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (3-30-06)

c. Addition of an owner to multiple ownership does constitute a change in ownership. (3-30-06)

d. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the facility license shall be submitted to the Bureau. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. (3-30-06)

351. -- 3754. (RESERVED).

355. GENERAL LIABILITY INSURANCE REQUIREMENT (RULE 355).

As set forth in 54-5308(1)(j), Idaho Code, no facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars (\$1,000,000) for an occurrence. (____)

01. Original Facility License Application. An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. (____)

02. Renewal of Facility License. All licenses being renewed must certify that the facility holds a current general liability insurance policy. (____)

03. Audit of Liability Insurance. The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy. (____)

356. -- 374. (RESERVED).

375. INSPECTION RULES (RULE 375).

All facilities shall be subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to operate, or pursue disciplinary action for a failure to comply. ~~(3-30-06)~~(____)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.23.01 - RULES GOVERNING THE IDAHO BOARD OF SPEECH AND HEARING SERVICES

DOCKET NO. 24-2301-0701

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(s) 54-2910, 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 October 17, 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:

To clarify qualifications for Audiologists, Speech-Language Pathologists, Speech-Language Pathologist Aides, Speech-Language Pathologist Assistants, and Hearing Aid Dealer and Fitters and to clarify personal contact by supervisors for provisional permit holders.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules will clarify the laws pertaining to Speech and Hearing Services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 23rd day of August, 2007.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
Phone (208) 334-3233
Fax (208) 334-3945

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2301-0701

201. -- ~~2909~~. (RESERVED).

210. QUALIFICATIONS FOR AUDIOLOGIST LICENSURE (RULE 210).

In addition to completion of an application as set forth in Section 150 of these rules, all applicants for licensure as an audiologist must comply with the following education, experience, and examination requirements: ()

01. Graduate Program Requirement. A master's or doctoral degree with emphasis in audiology or not less than seventy-five (75) semester credit hours of post-baccalaureate study that culminates in a doctoral degree from a nationally accredited school for audiology. ()

02. Examination. Pass an examination given by PRAXIS or other examination as may be approved by the Board. ()

03. Experience. Meet the supervised academic clinical practicum and supervised postgraduate experience approved by the Board. ()

211. -- 219. (RESERVED).

220. QUALIFICATIONS FOR SPEECH-LANGUAGE PATHOLOGIST LICENSURE (RULE 220).

In addition to completion of an application as set forth in Section 150 of these rules, all applicants for licensure as a speech-language pathologist must comply with the following education, experience, and examination requirement : ()

01. Graduate Program Requirement. A master's or doctoral degree from a nationally accredited school of speech-language pathology with a curriculum approved by the Board. ()

02. Examination. Pass an examination in speech-language pathology given by PRAXIS or other examination as may be approved by the Board. ()

03. Experience. Meet the supervised academic clinical practicum and supervised postgraduate experience approved by the Board. ()

221. -- 229. (RESERVED).

230. QUALIFICATIONS FOR SPEECH-LANGUAGE PATHOLOGIST AIDE LICENSURE (RULE 230).

In addition to completion of an application as set forth in Section 150 of these rules, all applicants for licensure as a speech-language pathologist aide must comply with the following education and examination requirements: ()

01. Education Program Requirement. A baccalaureate degree from a nationally accredited school of speech-language pathology with a curriculum approved by the Board. ()

02. Examination. Pass an examination in speech-language pathology aide as may approved by the Board. ()

03. Supervision. A speech-language pathologist aide shall only work under the supervision of a speech-language pathologist. ()

231. -- 239. (RESERVED).

240. QUALIFICATIONS FOR SPEECH-LANGUAGE PATHOLOGIST ASSISTANT LICENSURE (RULE 240).

In addition to completion of an application as set forth in Section 150 of these rules, all applicants for licensure as a speech-language pathologist assistant must comply with the following education and examination requirements: ()

01. Education Program Requirement. An associate's degree from a nationally accredited school of speech-language pathology with a curriculum approved by the Board. ()

02. Examination. Pass an examination in speech-language pathology assistant as may be approved by

the Board. ()

03. Supervision. A speech-language pathologist assistant shall only work under the supervision of a speech-language pathologist. ()

241. -- 249. (RESERVED).

250. QUALIFICATIONS FOR HEARING AID DEALER AND FITTER LICENSURE (RULE 250).
In addition to completion of an application as set forth in Section 150 of these rules, all applicants for licensure as a speech-language pathologist must comply with the following education, experience, and examination requirements: ()

01. Education Requirement. A high school diploma or successful passage of the General Educational Development diploma (GED). ()

02. Examination. Pass an examination approved by the Board. ()

251. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

450. PROVISIONAL PERMIT (RULE 450).

The Board may issue a provisional permit to allow a person to engage in the practice of audiology or speech-language pathology while completing either the required postgraduate experience or a comparable experience as part of a doctoral program in audiology. The Board may issue a provisional permit to allow a person to engage in fitting and dealing hearing aids pursuant to rules adopted by the Board. The holder of a provisional permit may practice only while under the supervision of a person fully licensed under this chapter. (3-30-06)

01. Adequate Personal Contact -- Requirements. (3-30-06)

a. The supervisor and provisional permit holder must make contact in person each work day to review any assignments, client contacts, diagnoses, therapies, and hearing aid fittings for the first sixty (60) days of employment. ~~A minimum of sixty (60) contacts that must be completed within the first six (6) months of such supervision.~~ The nature of the supervision and contact must allow for immediate feedback and includes audio/visual, in person, or telephone contacts. (3-30-06)()

b. Contact in person described in Subsection 450.01.a., after the first sixty (60) days of employment must be made no less than once in each calendar week throughout the ~~entire~~ remaining period of the permit. (3-30-06)()

c. In the event a permit holder fails the licensing examination two (2) consecutive times, and is eligible to maintain a permit, the supervisor and permit holder must reinstate contact in person each work day as set forth in Subsection 450.01.a. (3-30-06)

d. All client and supervisor contacts shall be recorded in the permit holder's quarterly report. (3-30-06)

02. Supervisor -- Responsibilities -- Restrictions. (3-30-06)

a. The supervisor shall be familiar with Section 54-2908, Idaho Code. (3-30-06)

b. The supervisor shall be responsible for all practice and the ethical conduct of each permit holder under supervision. (3-30-06)

c. A supervisor may not supervise more than one (1) permit holder at a time. (3-30-06)

- d.** The supervisor and the permit holder shall be required to work within the same facility. (3-30-06)
- e.** The supervisor shall provide the permit holder with adequate training and client contact necessary to prepare for the required examination. (3-30-06)
- f.** The supervisor shall record with the Board a plan of training that encompasses all ten sections covered in the license examination. The plan must be accepted and approved by the Board or its agent prior to issuance of the permit. The supervisor shall document, by the quarterly report, the permit holder's progress. (3-30-06)
- g.** A supervisor may terminate his supervision of a permit holder by a written notice to the Bureau and the permit holder by certified mail at least ten (10) calendar days prior to the termination. (3-30-06)
- 03. Application -- Quarterly Reports.** (3-30-06)
- a.** Application for permit shall include completed application, examination fee, permit fee, supervisor statement and plan of training and supervision. (3-30-06)
- b.** A permit shall not be valid unless an unrevoked statement accepting supervisory responsibility by a qualified licensee is on file with the Bureau. Upon termination of supervision, a new permit may be applied for in accordance with these rules, provided that the expiration date of the new permit is adjusted to not exceed the date of the third licensure examination following the original application. (3-30-06)
- c.** Eighteen (18) months is the maximum time allowed for any combination of new or renewed permits. (3-30-06)
- d.** Every permit holder must submit a quarterly report of his activities on forms furnished by the Bureau together with supplemental attachments as may be necessary, attested to and signed by the permit holder and the supervisor of record. All sales or fittings made by the permit holder will be indicated on the quarterly report forms supplied by the Bureau. Supplemental attachments to be submitted with this form include: (3-30-06)
- i.** Log of client and supervisor contacts as specified in Subsection 450.01.d. (3-30-06)
- ii.** Supervisor's statement of completion of training assignments by permit holder as specified in Subsection 450.02.f. (3-30-06)
- iii.** Copy of test results for all persons tested by the permit holder whether or not a sale occurred. (3-30-06)
- iv.** Copy of hearing aid order for all fittings including specifications of instruments ordered. (3-30-06)
- e.** Quarterly reports are due on or before April 10th, July 10th, October 10th and January 10th for the three (3) months preceding the month due. If the permit has not been in effect for the entire quarter, the report is due for that portion of the quarter in which the permit was in effect. If quarterly reports are not received by the specified due date, the permit will be revoked. A new permit may be applied for in accordance with Subsection 450.03.a. (3-30-06)
- 04. Exemptions.** (3-30-06)
- a.** A permit holder who possesses the Certificate of Clinical Competence in Audiology from American Speech-Language-Hearing Association (ASHA) or who is Board Certified by National Board for Certification in Hearing Instrument Sciences (NBC-HIS) shall be exempt from Subsections 450.01.a., 450.02.d., and 450.02.f. from the date of issuance of the permit until the date of the next offered licensing examination. (3-30-06)
- b.** Failure of the licensing examination or failure to take the next offered licensing examination rescinds this exemption. (3-30-06)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.24.01 - RULES OF THE BOARD OF NATUROPATHIC MEDICAL EXAMINERS
DOCKET NO. 24-2401-0701 (NEW CHAPTER - FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-5109, Idaho Code.

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

October 23, 2007 -- 8:30 a.m. to 11:30 a.m.
Bureau of Occupational Licenses
1109 Main St., Suite 220, 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:

The rules provide contact information, definitions, provide an application, provide for fees, allow for renewal of registrations, set standards for continuing education, defines scope of practice, and defines approved schools and examinations.

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

These rules would set fees for application, license, and renewal allowed in Section 54-5111, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the July 4, 2007, Idaho Administrative Bulletin, Volume 07-7, page number 70.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 22nd day of August, 2007.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2401-0701

IDAPA 24
TITLE 24
CHAPTER 01

24.24.01 - RULES OF THE BOARD OF NATUROPATHIC MEDICAL EXAMINERS

000. LEGAL AUTHORITY (RULE 0).

Pursuant to Sections 54-5103, 54-5104, 54-5105, and Section 54-5109, Idaho Code, the Idaho Board of Naturopathic Medical Examiners (IBNME) is authorized to promulgate rules to govern the practice of Naturopathic Medicine in Idaho. ()

001. TITLE AND SCOPE (RULE 1).

These rules shall be cited as IDAPA 24.24.01, "Rules of the Board of Naturopathic Medical Examiners." ()

002. WRITTEN INTERPRETATIONS (RULE 2).

The Board may have written statements that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. ()

003. ADMINISTRATIVE APPEALS (RULE 3).

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General." ()

004. INCORPORATION BY REFERENCE (RULE 4).

There are no documents incorporated by reference into this rule. ()

005. ADDRESS OF IDAHO BOARD OF NATUROPATHIC MEDICAL EXAMINERS (RULE 5).

The central office of the Idaho Board of Naturopathic Medical Examiners will be in Idaho located within the Bureau of Occupational Licenses. The Board's mailing address, unless otherwise indicated, will be Idaho Board of Naturopathic Medical Examiners, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The telephone number of the Board is (208)334-3233. The Board's facsimile (FAX) number is (208)334-3945. The Board's web site is at www.ibol.idaho.gov/nat.htm. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ()

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

The records associated with the Board of Naturopathic Medical Examiners are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. FILING OF DOCUMENTS - NUMBER OF COPIES (RULE 7).

Originals of all documents must be filed with the Board. ()

008. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

01. Act or NPLA. The Naturopathic Physicians Licensing Act. Title 54, Chapter 51, Idaho Code. ()

02. Applicant. Any person seeking a license to practice naturopathic medicine from the Board. ()

03. Board. The Idaho Board of Naturopathic Medical Examiners as prescribed in Section 54-5108, Idaho Code. ()

04. Board Approved Accrediting Bodies. The Board shall approve qualified, independent,

accrediting organizations as approved accrediting bodies for purposes of approving naturopathic medical programs including the Liaison Committee for Naturopathic Education (LCNE), the United States Department of Education (USDE), the Council on Naturopathic Medical Education (CNME), and any other qualified, independent, accrediting organization(s) that the Board may deem to be acceptable. ()

05. Bureau. The Bureau of Occupational Licenses as prescribed in Section 67-2602, Idaho Code. ()

06. Environmental Medicine. Environmental Medicine explores the role of dietary and environmental allergens in health and illness. Environmental medicine addresses the elimination of toxic substances in the body, the body's ability to process new environmental insults, and lifestyle changes to avoid future problems. ()

07. Former Patient. A former patient includes a patient for whom the physician has not provided medical services or prescriptions within the last eighteen (18) months. ()

08. Idaho Jurisprudence Examination. A multiple choice examination created by the Bureau related to the naturopathic laws and Board rules and approved by the Board. ()

09. License to Practice Naturopathic Medicine. A license issued by the Board to practice naturopathic medicine in Idaho. ()

10. Mechanotherapy. The treatment of disease by manual, physical, electrical, or mechanical means. Mechanotherapy excludes chiropractic adjustment as defined in Section 54-704, Idaho Code, or physical therapy as defined in Section 54-2203, Idaho Code. ()

11. Meridian Therapy. Meridian therapy is the treatment of the body's energy pathways by manual, electrical, physical, or mechanical means. Meridian therapy does not involve insertion of acupuncture needles.()

12. Naturopathic Medical Formulary Council. That council created and consisting of naturopathic physicians, pharmacists, and medical physicians pursuant to Section 54-5110, Idaho Code. The council, once appointed and formed, must specifically include in the naturopathic medical formulary those prescription drugs and/or medical devices that a naturopathic physician will be allowed to dispense, administer, adjust or prescribe. In order to best serve the field of naturopathic medicine and the public, the Board retains its authority to review pharmacists and medical physicians who have some understanding in holistic health care and naturopathic medicine for appointment to the Council. ()

13. Naturopathic Medicine. Naturopathic medicine allows naturopathic physicians to provide all natural health care services as defined in Section 54-5102(8), Idaho Code. ()

14. Original Certificate or Document. Shall mean either the original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board or a Board approved credential verification service. ()

15. Rules. The Rules of the Board of Naturopathic Medical Examiners, IDAPA 24.24.01 as amended from time to time. ()

16. Suspicious of Malignancy. The term "treat any lesion suspicious of malignancy" means a naturopathic physician may treat a person with a lesion unless he is reasonably aware based upon standard naturopathic education and training that the lesion has a possibility of being malignant and, if so, will refer patient with said lesion to an appropriately licensed health care professional. Nothing in Title 54, Chapter 51, Idaho Code, shall prohibit treatment of a person with suspicious or malignant lesions in conjunction with a physician licensed pursuant to Title 54, Chapter 18, Idaho Code. ()

17. Treat Any Lesion Requiring Surgical Removal. The term "treat any lesion requiring surgical removal" means a naturopathic physician will only do such removal if it falls within the definition of "minor office procedures" per Section 54-5102(3), Idaho Code. ()

011. -- 099. (RESERVED).

100. SCOPE OF PRACTICE (RULE 100).

01. Scope of the Naturopathic Physician. A naturopathic physician is authorized to provide only services and treatments for which that licensee has been appropriately trained and prepared by Board approved education, continuing education, and practical experience. Information contained within the application together with supporting documentation submitted by the licensee shall be prima facie evidence of the licensee's education and experience. It is the responsibility of the individual licensee to submit adequate documentation of education and experience appropriate to the services and treatments being provided to the public. Naturopathic medicine allows naturopathic physicians to provide all natural health care services as defined in Section 54-5102(8), Idaho Code. A naturopathic physician is authorized to examine, diagnose, treat, mitigate, and prevent all mental and physical illnesses, infirmities, injuries, ailments, diseases, and conditions or make appropriate referral. ()

02. Release of Liability. If a patient of a naturopathic physician refuses to accept treatment for health conditions that are required by statute to be referred to a medical physician licensed pursuant to Title 54, Chapter 18, Idaho Code, said naturopathic physician has the right to not refuse treatment to said patient if patient signs a release of liability form stating that said patient was referred to a medical physician and is voluntarily, without coercion, and in sound mind refusing all treatment from a medical physician. A tailored release of liability form will be made available to all licensed naturopathic physicians. ()

03. Treatments. The scope of practice as defined in Section 54-5104, Idaho Code, as amended, and includes dispensing, administering, ordering, prescribing or performing the following: ()

a. Oral food, extracts of food, nutraceuticals, phytonutrients, vitamins, amino acids, minerals, enzymes, botanicals, and their extracts, homeopathic medicines, herbal medicines, Ayurvedic medicines, all dietary supplements and non prescription drugs as defined by or recognized in the United States Pharmacopoeia-National Formulary (USP-NF), the Homeopathic Pharmacopoeia of the United States (HPUS), Facts & Comparisons, and the PDR (Physicians Desk Reference) for Herbal Medicines or any supplement to these documents. ()

b. Prescription medications and devices as determined by the naturopathic medical formulary council and approved by the Board. ()

c. Naturopathic physical medicine and modalities consistent with naturopathic medical training and education including, but not limited to, hydrotherapy, colon hydrotherapy, meridian therapy, electro-stimulation, sensitivity elimination therapy, micro-systems diagnosis and therapy, mechanotherapy, therapeutic touch, contact reflex analysis, environmental medicine, light therapy, color therapy, energy therapy, gem therapy, sound therapy, air therapy, heat therapy, bio-feedback, and therapeutic exercise. Devices including, but not limited to, therapeutic devices, barrier contraception, and durable medical equipment. ()

d. Health promoting education and counseling. ()

e. Repair and care incidental to superficial lacerations and abrasions, removal of foreign bodies located in the superficial tissues, as defined in Section 54-5102.3, Idaho Code. ()

101. -- 109. (RESERVED).

110. SPECIAL COMPETENCY CERTIFICATION (RULE 110).

Acquired Special Competency Certifications shall be shown on licenses issued to naturopathic medical doctors for the following areas: minor office procedures, intravenous therapy, and naturopathic obstetrics, and also displayed on the license certificate and annual renewal card. ()

01. Naturopathic Obstetrics Certification. Naturopathic obstetrics certification requires proof of completion of an advanced life support in obstetrics (ALSO) course and documentation of training and experience equal to or greater than that required by IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." ()

02. Intravenous Therapy Certification. Intravenous therapy certification requires proof of

completion of appropriate coursework and number of hours to be determined by the Board. ()

03. Minor Office Procedures Certification. Minor office procedures certification requires proof of completion of a preceptorship consisting of twenty-five (25) documented cases as approved by the Board. ()

111. -- 124. (RESERVED).

125. QUALIFICATIONS FOR LICENSURE (RULE 125).

01. Qualifications for Licensure. Applicants will meet the following requirements: ()

a. Submit a complete application accompanied by all appropriate fees; ()

b. Completion of a Board approved naturopathic medical program as defined in Section 54-5102 (1), Idaho Code; ()

c. Pass an examination approved by the Board as defined in Sections 54-5109 (9) and 54-5112(2), Idaho Code; ()

d. File a Board-approved disclosure form stating the degrees, training, experience, credentials and the health care services they are approved to provide by the Board; ()

e. Sign an affidavit swearing under oath that they: ()

i. Possess a good, ethical and professional reputation; ()

ii. Are physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation; and, ()

iii. Have never had a license to practice naturopathic medicine or other health care license, registration or certificate refused, revoked or suspended by any other state or country for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine, or other health care profession unless that license, registration or certification has been restored to good standing by that state or country. ()

iv. Have disclosed any criminal charges, convictions, or guilty pleas against the applicant other than minor traffic offenses. ()

02. Residence. No period of residence in Idaho shall be required of any applicant. ()

03. Character. The Board may refuse licensure if it finds that the applicant has engaged in conduct prohibited by Section 54-5115, Idaho Code; provided that the Board, solely at its own discretion, may take into consideration the rehabilitation of the applicant and other mitigating circumstances. ()

04. Application - Form and Deadline. ()

a. All applicants shall complete an application for licensure upon a Board approved form, which shall include: ()

i. References to include two (2) letters of recommendation signed by naturopathic physicians who have known the applicant professionally for at least one (1) year; ()

ii. An unmounted photograph of the applicant, of adequate size and clarity to identify the applicant and no larger than four inches tall by three inches wide (4" x 3"), taken not more than one (1) year prior to the date of the application; ()

iii. The employment history and relevant practice locations of the applicant; ()

- iv. Each state in which the applicant has applied for a license to practice naturopathic medicine; and ()
- v. Each state wherein the applicant is licensed to practice naturopathic medicine. ()
- b. No application shall be accepted or considered by the Board until it is complete and has been received by the bureau at least thirty (30) days prior to the next scheduled Board meeting and all required fees have been paid. ()
- c. Incomplete applications on file with the Bureau for a period in excess of one (1) year from the date of initial receipt by the Bureau shall be deemed denied and terminated by the Board. ()

05. Official Transcripts. ()

- a. All applicants shall arrange for official transcripts of all credit earned, at each approved educational institution, to be transmitted by the registrars of the education institutions directly to the Board. ()
- b. If official documentation is unobtainable or unavailable, the applicant shall submit a written explanation and provide any documentation the Board may request to assist the Board in considering the application for licensure. ()

06. Personal Interview. Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicants qualifications and professional credentials. ()

126. -- 129. (RESERVED).

130. APPROVED PROGRAMS OF NATUROPATHIC MEDICINE (RULE 130).

All applicants shall have attended an "Approved Naturopathic Medical Program" as that phrase is defined in Section 54-5102(1), Idaho Code, to mean a doctoral level program of supervised resident study in naturopathic medicine approved by the Board. The Board approves the following qualified, independent, accrediting organizations as Board approved accrediting bodies for purposes of approving Naturopathic Medical Programs - the Liaison Committee for Naturopathic Education (LCNE), the United States Department of Education (USDE), the Council on Naturopathic Medical Education (CNME), and any other qualified, independent, accrediting organization(s) that the Board deems to be acceptable. An approved program of naturopathic medicine includes any program accredited by the accrediting bodies identified in this rule or any other program as approved by the Board. All approved naturopathic programs must also meet the registration requirements of their relevant jurisdiction. ()

01. Naturopathic Medical Program. If the program is not accredited by an accrediting body identified in this rule, the naturopathic medical program will meet the following minimum naturopathic medicine educational standards: ()

- a. The naturopathic medical school is or was incorporated in the United States under the laws of the state of its residence. Foreign country naturopathic medical programs must possess equivalent qualifications to those required of U.S. naturopathic medical programs. Approved schools of Naturopathic Medicine will be duly registered with the appropriate agency under their State Department or Board of Education in the state in which they exist and regulated by the rules of that Department or Board of Education in that state. Any individual or school entity offering an approved program of study in Naturopathic Medicine and operating in the state of Idaho must comply with provisions of Title 33, Chapter 24, Idaho Code, and register with the Idaho State Board of Education unless specifically exempt from the registration requirements of IDAPA 08.01.11, "Registration of Post-Secondary Educational Institutions and Proprietary Schools," Subsection 400.03.d. ()

- b. The naturopathic medical schools or programs objectives shall be clearly stated and should address the preparation of naturopathic physicians to provide patient care and for being licensed by state authorities. ()

- c. Educational standards shall include instruction in a core program of the basic and clinical sciences relating to naturopathy, naturopathic theory and practice, including naturopathic techniques and methods, and such

other subjects as the Board may deem useful and shall require each student to demonstrate competence. ()

d. The naturopathic medical program shall disclose to the Board, upon request, information regarding the academic merits of its curriculum, the professional competence of its faculty, record keeping methods, physical assets, financial status, makeup of the governing body, catalogue characteristics, nondiscrimination policy, and any self-evaluation system. ()

02. Revoke the Approval. The Board may revoke the approval of a program if it fails to meet the requirements of its applicable approved accrediting body or the Board. ()

131. -- 134. (RESERVED).

135. APPROVED NATUROPATHIC EXAMINATION (RULE 135).

All applicants must pass a Board-approved examination and an Idaho jurisprudence examination. ()

01. Section 54-5109(9), Idaho Code. The Board shall have the authority to provide a uniform independently proctored and psychometrically valid examination for use in licensing naturopathic physicians which will adequately test the applicant's knowledge of naturopathic medicine including the basic medical sciences and the diagnostic and therapeutic skill of license applicants. ()

02. Approved Examinations. ()

a. The USNLE (the United States Naturopathic Licensing Exam) is an approved naturopathic examination for licensing naturopathic physicians in Idaho conditioned upon the Board reviewing and approving its compliance with the statute examination requirements as defined in Sections 54-5109(9) and 54-5112(2), Idaho Code, including competency based, and psychometric validity and reliability. The USNLE is administered by the National Board of Naturopathic Medical Examiners (NBNME) or successor organization. ()

b. The NPLEx (the Naturopathic Physicians Licensing Exam) is an approved naturopathic examination for licensing naturopathic physicians in Idaho conditioned upon the Board reviewing and approving its compliance with the statute examination requirements as defined in Sections 54-5109(9) and 54-5112(2), Idaho Code, including competency based and psychometric validity and reliability. The NPLEx is administered by the North American Board of Naturopathic Examiners (NABNE) or successor organization. ()

c. The Board retains its authority to evaluate any examination entity for approval that meets the statute examination requirements as defined in Sections 54-5109(9) and 54-5112(2), Idaho Code, including competency based and is psychometrically valid and reliable. ()

03. Minimum Passing Score. The minimum passing score for each section of any examination approved by the Board shall be that passing score determined by the examination entity. ()

04. Idaho Jurisprudence Examination. The minimum passing score for the jurisprudence examination shall be seventy-five percent (75%). ()

136. -- 149. (RESERVED).

150. LICENSES (RULE 150).

01. Expiration Date. All licenses issued pursuant to the Naturopathic Physicians Licensing Act, Title 54, Chapter 51, Idaho Code, and these Rules shall expire and must be renewed annually in accordance with Section 67-2614, Idaho Code. Licenses not timely renewed prior to expiration shall be cancelled. ()

02. Renewal. Each license to practice naturopathic medicine may be renewed prior to its expiration date by the payment of a renewal fee to the Board and completion of a renewal form provided by the Board. In order to be eligible for renewal, a licensee must provide a current address to the Board and must notify the Board of any change of address prior to the renewal period. Licenses not renewed by their expiration date shall be canceled. The license will terminate on the date of the license holder's birthday in accordance with Section 67-2614, Idaho Code.

()

03. Reinstatement. In accordance with Section 67-2614, Idaho Code, licenses canceled for nonpayment of renewal fees may be reinstated by filing a reinstatement application on forms prescribed by the Board and upon payment of a reinstatement fee. The applicant shall submit proof of having satisfied the required CE credits for the twelve-month (12) period preceding the reinstatement date. ()

04. Relicensure. Persons, whose licenses have been canceled for a period of more than five (5) years, shall be required to make application to the Board as new applicants for licensure and comply with provisions of Section 67-2614, Idaho Code, for reinstatement. ()

151. -- 199. (RESERVED).

200. LICENSURE BY ENDORSEMENT (RULE 200).

01. Jurisdiction Other Than the State of Idaho. All applicants licensed in a jurisdiction other than the state of Idaho and whose licensure requirements are equal to or greater than the licensure requirements for the state of Idaho may apply for licensure by endorsement. Endorsement applicants shall meet the following requirements: ()

a. Submit a complete application accompanied by the appropriate fees. ()

b. Cause to be submitted directly to the Board from the issuing authority an official certification of a current license in good standing. ()

c. Sign an affidavit swearing under oath that they have: ()

i. Fully reviewed and understand and will abide by both the Naturopathic Physicians Licensing Act, Title 54, Chapter 51, Idaho Code, and the Board's Rules, IDAPA 24.24.01, "Rules of the Board of Naturopathic Medical Examiners"; and, ()

ii. Have never had a license to practice naturopathic medicine or other health care license, registration or certificate refused, revoked or suspended by any other state or country for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine, or other health care profession unless that license, registration or certification has been restored to good standing by that jurisdiction. ()

d. The Board may refuse licensure if it finds that the applicant has engaged in conduct prohibited by Section 54-5115, Idaho Code; provided that the Board, solely at its own discretion, may take into consideration the rehabilitation of the applicant and other mitigating circumstances. ()

201. -- 249. (RESERVED).

250. CONTINUING NATUROPATHIC EDUCATION (CNE) REQUIRED (RULE 250).

01. Purpose. The purpose of practice relevant CNE is to enhance competence, performance, understanding of current standards of care, and patient outcomes. ()

02. Renewal. Each person licensed to practice naturopathic medicine in Idaho shall complete no less than twenty (20) hours of relevant educational courses, workshops or other activities as approved by the Board, five (5) hours of which must be in pharmacology with specialization in naturopathic materials, medications, and remedies each year. Licensee may carry over up to twenty (20) hours of unused CNE's to the next renewal cycle. ()

03. Continuing Education. Continuing education regarding formulary for use by naturopathic physicians. Once an approved formulary, as determined by the naturopathic medical formulary council, has been adopted as a temporary rule, all licensed naturopathic physicians must take a Board-approved course reviewing any addition to the formulary. ()

04. Approved Programs. All education offered by regionally accredited institutions or organizations, or sponsored by a federally accredited naturopathic medical program or as approved by the Board. ()

05. Distance Learning and Home Study. Courses of distance learning and home study that do not include the actual physical attendance of the applicant in a face-to-face setting with a course instructor may be approved by the Board for continuing education credit. Such courses shall not be eligible for more than fifty percent (50%) of the required continuing education credits. ()

06. Verification of Compliance. Licensees shall, at license renewal, provide a signed statement to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. ()

07. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any person whom the Board determines has failed to comply with the continuing education requirements of Section 250 of these rules. ()

251. -- 299. (RESERVED).

300. FEES (RULE 300).

01. Licensure Fee. Licensure Fee -- Two hundred fifty dollars (\$250). ()

02. Application Fee. Application Fee -- Two hundred fifty dollars (\$250). ()

03. Reinstatement License Fee. Reinstatement license fee -- one hundred dollars (\$100) plus total of renewal fees not paid by applicant. ()

04. Annual Renewal Fee. Annual Renewal Fee -- Two hundred fifty dollars (\$250). ()

05. Non-Refundable. All fees are non-refundable. ()

301. -- 349. (RESERVED).

350. ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION OR DISCIPLINARY ACTIONS AND SANCTIONS. (RULE 350).

In addition to the statutory grounds for naturopathic medical discipline set forth in Section 54-5115, Idaho Code, every person licensed to practice naturopathic medicine is subject to discipline by the Board upon any of the following grounds: ()

01. Crimes. If an applicant is guilty or convicted of any item listed in Section 54-5115(5), Idaho Code, and reparation is made by said applicant and the debt is paid to society by said applicant, then the Board may, at the Board's discretion, consider the issuance and/or renewal of a naturopathic medicine license to said applicant. ()

02. Unethical Advertising. Advertising the practice of naturopathic medicine in any unethical or unprofessional manner, includes, but is not limited to: ()

a. Using advertising or representations likely to deceive, defraud, or harm the public. ()

b. Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the naturopathic medicine, treatment, or remedy prescribed by the licensee at the licensee's direction in the treatment of any disease or other condition of the body or mind. ()

03. Failure to Meet Standard of Care. The providing of health care which fails to meet the standard of health care provided by other qualified naturopathic physicians in the same community or similar communities, includes, but is not limited to: ()

a. Being found mentally incompetent or insane by any court of competent jurisdiction. ()

- b.** Engaging in practice or behavior that demonstrates, or manifests an incapacity, or incompetence to practice naturopathic medicine. ()
- c.** Allowing another person or organization to use the licensee's license to practice medicine. ()
- d.** Prescribing, selling, administering, distributing or giving to himself, herself, to a spouse, child, or stepchild any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug. ()
- e.** Violating any state or federal law or regulation relating to controlled substances. ()
- f.** Directly promoting minor office procedures or laboratory tests that are unnecessary and contraindicated by current standards of naturopathic practice. ()
- g.** Failure to transfer pertinent and necessary medical records to another physician when requested to do so by the subject patient or by the subject patient's legally designated representative or guardian. ()
- h.** Failing to maintain adequate records. Adequate patient records means legible records that contain, at a minimum, subjective information, an evaluation and report of objective findings, assessment, or diagnosis, and the plan of care. ()
- 05. Conduct.** Engaging in any conduct that constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient, including, but not limited to: ()

 - a.** Obtaining any fee by fraud, deceit, or misrepresentation. ()
 - b.** Employing abusive billing practices. ()
 - c.** Commission of any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient where such act arises out of the licensee's practice of naturopathic medicine. ()

 - i.** Consent of the patient, whether expressed or implied, shall not be a defense. ()
 - ii.** Subsection 350.05 of this rule does not apply to sexual contact between a naturopathic medical care provider and the provider's spouse or a person in a domestic relationship who is also a patient. ()
 - d.** Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient, board or committee on professional discipline member, Board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation, or other legal action. ()
- 06. Civil Fine.** The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed naturopathic physician for each violation of Section 54-5115, Idaho Code. ()
- 07. Costs and Fees.** The Board may order a licensed naturopathic physician to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee if found in violation of Section 54-5115, Idaho Code. ()
- 351. -- 999. (RESERVED).**

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-4249, 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 October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

This proposed rule addresses several issues pertaining to the operation of state parks and protection of the natural resources of the state. An addition to the definition of the capacity of a campsite is recommended to provide that a family unit can include one vehicle or RV, or two motorcycles, and up to two tents. An increasing number of park visitors come to our facilities to pursue non-traditional recreational activities, such as model airplane operations, geocaching, gold panning, and metal detecting, etc. We need to establish appropriate guidance for park staff so they can effectively manage these activities for the benefit of the visitor and the natural resources of the park. With regard to protection of our historical, cultural and natural resources, we are experiencing an increasing number of requests to spread human ashes on lands owned by the Parks Department. This rule change will provide the necessary guidance for staff to appropriately respond to requests, and will also establish acceptable parameters for approving this activity.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public meetings will be scheduled prior to the upcoming legislative session if requested.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dean Sangrey, 208-514-2260, dsangrey@idpr.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 28th day of August, 2007.

Dean Sangrey, Division Administrator, Operations
Idaho Department of Parks and Recreation
5657 Warm Springs Ave., Boise, ID 83716
PO Box 83720, Boise, ID 83720-0065
Phone: 208-334-4199 / Fax: 208-334-3741

THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0120-0701

010. DEFINITIONS.

As used in this chapter:

(1-1-94)

01. ADA Campsites and Facilities.

(3-30-06)

a. ADA Designated Campsites. A reservable ADA campsite may only be reserved and occupied by a party that can provide proof of disability upon arrival. If not reserved after 6:00 p.m. and no other non-ADA designated sites of the same site type are available, the site would be available for one (1) night. (3-30-06)

b. ADA Accessible Facilities. IDPR offers some facilities that provide for ADA accessibility. These facilities are not managed exclusively for ADA use. (3-30-06)

02. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member Board, appointed by the Governor. (3-13-97)

03. Camping Unit. A camping unit is the combined equipment and people capacity that a site or facility will accommodate. (3-30-06)

a. Campsites. Maximum capacity limits on each campsite are subject to each site's design and size. Unless otherwise specified, the maximum capacity will be one (1) family unit or a party of no more than eight (8) persons, one (1) vehicle or RV or two (2) motorcycles, and up to two (2) tents, provided the combined equipment and people fit within the designated camping area of the site selected. (~~3-30-06~~)(____)

b. Facilities. Maximum capacity limits on each facility are subject to each facility's design and size. The combined equipment and people occupying a facility must fit within the designated areas of the facility selected. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

401. OPERATIONAL GUIDELINES FOR NON-TRADITIONAL RECREATIONAL ACTIVITIES.

Non-traditional recreational activities such as model airplane/glider operations, geo-caching, gold panning and metal detecting may be authorized by the Park Manager or his designee, if such activities do not interfere with traditional uses of the park and are consistent with preservation of park resources. (____)

~~401~~2. -- 449. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

576. PROTECTION OF HISTORICAL, CULTURAL AND NATURAL RESOURCES.

The digging, destruction or removal of historical, cultural or natural resources is prohibited. Collection for scientific and educational purposes will be through written permission of the park manager or designee only. (3-30-06)

01. Spreading of Human Ashes. Human ashes may be spread on lands owned by the Idaho Department of Parks and Recreation. The exact location must be pre-approved by the Park Manager or designee. Ashes may not be spread in the water within a state park. (____)

02. Land-Use Restrictions. The spreading of human ashes will not restrict the use of Department land from future development. The Department does not assign or convey any rights or restrictions by allowing the placement of ashes on the land, and there are no restrictions in the ability of the landowner to operate, develop, or otherwise use the land at their sole discretion without any obligation associated with the placement of ashes on the land. (____)

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

26.01.30 - IDAHO SAFE BOATING RULES

DOCKET NO. 26-0130-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-4249, 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 October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

In accordance with the provisions of the Idaho Safe Boating Act, it is critical that the Department of Parks and Recreation rules be amended to address concerns with regard to negligent operation of a vessel. This proposed amendment addresses unsafe seating while the vessel is underway, and the unsafe operation of a vessel in close proximity to a person in the water.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public meetings will be scheduled prior to the upcoming legislative session if requested.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dean Sangrey, 208-514-2260, dsangrey@idpr.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 28th day of August, 2007.

Dean Sangrey
Division Administrator, Operations
Idaho Department of Parks and Recreation
5657 Warm Springs Ave.
Boise, ID 83716
PO Box 83720
Boise, ID 83720-0065
Phone: 208-334-4199
Fax: 208-334-3741

THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0130-0701

525. NEGLIGENT OPERATION.

Negligent operation, as used in Section 67-7017, Idaho Code, shall include, but not be limited to, the following:

(1-1-94)

01. Airborne. Becoming airborne or completely leaving the water while crossing the wake of another vessel at an unsafe distance from the vessel creating the wake; or (3-23-98)

02. Weaving. Weaving through congested traffic; or (3-23-98)

03. Speed or Proximity. Operating at such a speed and proximity to another vessel, a person, or property of other persons so as to require the operator to swerve at the last moment to avoid collision; or ~~(3-23-98)~~()

04. Unsafe Seating While Underway. Operating a motorboat while a person sits, stands, or kneels on the bow deck, gunwales, transom, or any other areas not designed by the manufacturer for passengers, while the vessel is underway at a speed greater than no wake or five (5) miles per hour, except when immediately necessary for safe and reasonable navigation or operation; or ()

05. Unsafe Operation - Person in Vicinity of Vessel. Operating a motorboat, or engaging the engine of an idle motorboat, when someone is occupying the water in a manner or in proximity to the vessel's propulsion and/or exhaust so as to create a safety hazard. ()

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0703

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 3, 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 54-1717, 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 October 17, 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:

The Idaho Legislature in 2007 enacted comprehensive legislation regarding the licensing of wholesale distributors and the providing of prescription drug pedigrees. 2007 Session Law, Chapter 319 (S.B. No. 1184), pp. 948 through 959. The legislation is known as the Wholesale Drug Distribution Act. The Act necessitates revision of the Board of Pharmacy's existing rules regarding wholesalers in order to implement the new legislation. The proposed rule implements the licensing requirements, bonding requirements, and drug pedigree requirements required by the Idaho Wholesale Drug Distribution Act, which Act is a comprehensive revision of the former wholesale drug distribution laws.

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

The proposed changes are needed to comply with amendments in governing law regarding the licensing of wholesale distributors and the providing of prescription drug pedigrees.

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 utilized in view of the need for a temporary rule. This temporary rule is necessary in order to comply with amendments in governing law enacted by the 2007 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jan Atkinson, Senior Compliance Officer, (208) 334-2356.

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 October 24, 2007.

DATED this 15th day of August, 2007.

Jan Atkinson
Senior Compliance Officer
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, ID 83720-0067
Phone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0703

321. DEFINITIONS.

01. Authentication. To affirmatively verify before any wholesale distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred. (8-3-07)T

02. Use. ~~Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal.~~ **Authorized Distributor of Record.** A wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the Internal Revenue Code, complies with the following: (7-1-93)(8-3-07)T

a. The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (8-3-07)T

b. The wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis. (8-3-07)T

03. Other. ~~Articles other than food intended to affect the structure or any function of the body of man or other animals.~~ **Chain Pharmacy Warehouse.** A physical location for prescription drugs that acts as a central warehouse and performs intra-company sales or transfers of such drugs to a group of chain pharmacies that have the same common ownership and control. (7-1-93)(8-3-07)T

04. Co-Licensed Partner or Product. An instance where two (2) or more parties have the right to engage in the manufacturing and/or marketing of a prescription drug, consistent with the federal Food and Drug Administration's implementation of the Prescription Drug Marketing Act. (8-3-07)T

045. Components. Articles intended for use as a component of any articles specified in Subsection 321.01, 321.02, or 321.03 of these rules. (7-1-93)(8-3-07)T

06. Drop Shipment. The sale of a prescription drug to a wholesale distributor or chain pharmacy warehouse by the manufacturer of the prescription drug, or that manufacturer's co-licensed product partner, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, whereby the wholesale distributor or chain pharmacy warehouse takes title but not physical possession of such prescription drug and the wholesale distributor invoices the pharmacy or chain pharmacy warehouse, or other person authorized by law to dispense or administer such drug to a patient, and the pharmacy or chain pharmacy warehouse or other authorized person receives delivery of the prescription drug directly from the manufacturer, or that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor. (8-3-07)T

07. Drug. Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them. (7-1-93)

08. Facility. Facility of a wholesale distributor where prescription drugs are stored, handled, repackaged, or offered for sale. (8-3-07)T

069. Manufacturer. ~~Manufacturer means anyone who is~~ A person licensed or approved by the federal Food and Drug Administration to engaged in ~~manufacturing, preparing, propagating, compounding, processing, packaging, repackaging or labeling of a drug~~ the manufacture of drugs or devices, consistent with the federal Food and Drug Administration definition of "manufacturer" under its regulations and guidance implementing the Prescription Drug Marketing Act. (7-1-93)(8-3-07)T

10. Manufacturer's Exclusive Distributor. Anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. Such manufacturer's exclusive distributor must be licensed as a wholesale distributor under Section 54-1753, Idaho Code, and, to be considered part of the normal distribution channel, must also be an authorized distributor of record. (8-3-07)T

11. Normal Distribution Channel. A chain of custody for a prescription drug that goes from a manufacturer of the prescription drug, from that manufacturer to that manufacturer's co-licensed partner, from that manufacturer to that manufacturer's third party logistics provider, or from that manufacturer to that manufacturer's exclusive distributor, either directly or by drop shipment to: (8-3-07)T

a. A pharmacy to a patient; (8-3-07)T

b. Other designated persons authorized by law to dispense or administer such drug to a patient; (8-3-07)T

c. A wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; (8-3-07)T

d. A wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intra-company pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or (8-3-07)T

e. A chain pharmacy warehouse to the chain pharmacy warehouse's intra-company pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient. (8-3-07)T

12. Pedigree. A document or electronic file containing information that records each wholesale distribution of any given prescription drug. (8-3-07)T

0713. Prescription Drug. ~~Prescription drug means a~~Any human drug, including any biological product, except for blood and blood components intended for transfusion or biological products that are also medical devices, required by ~~Federal or Idaho~~ law or ~~rule~~ federal regulation to be dispensed only by a prescription, including finished dosage forms and ~~active ingredients~~ bulk substances, subject to Section 503(b) of the ~~Federal~~ Food, Drug and Cosmetic Act. (7-1-93)(8-3-07)T

14. Repackage. Repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist responsible for dispensing product to the patient. (8-3-07)T

15. Repackager. A person who repackages. (8-3-07)T

0516. Sample. ~~Drug sample means a~~A unit of a drug that is not intended to be sold and is intended to promote the sale of the drug. (7-1-93)(8-3-07)T

17. Third Party Logistics Provider. Anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer, but does not take title

to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. Such third party logistics provider must be licensed as a wholesale distributor under Section 54-1753, Idaho Code, and, to be considered part of the normal distribution channel, must also be an authorized distributor of record. (8-3-07)T

Ø18. Wholesale Distribution. Distribution of prescription drugs to persons other than a consumer or patient, but does not include: (7-1-93)(8-3-07)T

a. ~~The sale, purchase or trade of a drug or an offer to sell, purchase or trade a drug for emergency medical reasons; for purposes of this section "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage, except that the gross dollar value of such transfers shall not exceed five percent (5%) of the total prescription drug sales revenue of either the transferor or transferee pharmacy during any twelve (12) consecutive month period.~~ Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product. (7-1-93)(8-3-07)T

b. The sale, purchase, ~~or~~ distribution, trade, or transfer of a prescription drug, ~~an~~ or offer to sell, purchase, ~~or~~ distribute, trade, or transfer a prescription drug, ~~or the dispensing of a drug pursuant to a prescription for emergency medical reasons.~~ (7-1-93)(8-3-07)T

c. The ~~lawful~~ distribution of prescription drug samples by manufacturers' representatives ~~or distributor's representatives.~~ (7-1-93)(8-3-07)T

d. The sale, purchase or trade of blood and blood components intended for transfusion. Drug returns, when conducted by a hospital, health care entity, or charitable institution in accordance with 21 CFR 203.23. (7-1-93)(8-3-07)T

e. ~~Intracompany transfers among hospitals or health care entities under common control, transfers among members of a group purchasing organization and transfers between a charitable organization and a nonprofit affiliate.~~ The sale of minimal quantities of prescription drugs by retail pharmacies to licensed practitioners for office use. (7-1-93)(8-3-07)T

f. The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription. (8-3-07)T

g. The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets. (8-3-07)T

h. The sale, purchase, distribution, trade, or transfer of a prescription drug from one (1) authorized distributor of record to one (1) additional authorized distributor of record when the manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply such prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had, until that time, been exclusively in the normal distribution channel. (8-3-07)T

i. The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, and such common carrier does not store, warehouse, or take legal ownership of the prescription drug. (8-3-07)T

j. The sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original manufacturer or third party returns processor, including a reverse distributor. (8-3-07)T

Ø19. Wholesale Distributor. ~~Wholesale distributor means a~~ Anyone engaged in wholesale distribution of drugs, including, but not limited to: manufacturers; repackagers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturer's and distributor's warehouses; manufacturer's exclusive distributors; authorized distributors of record; drug wholesalers or distributors; independent wholesale drug traders;

specialty wholesale distributors; third party logistics providers; retail pharmacies that conduct wholesale distribution; and chain drug pharmacy warehouses and wholesale drug warehouses; independent wholesale drug traders; retail pharmacies; and drug outlets that conduct wholesale distributions. To be considered part of the normal distribution channel, such wholesale distributor, except for a chain pharmacy warehouse not engaged in wholesale distribution, must also be an authorized distributor of record. (7-1-93)(8-3-07)T

322. WHOLESALE DRUG DISTRIBUTOR LICENSING REQUIREMENT.

01. License Required. Every wholesale distributor, ~~wherever located,~~ who engages in wholesale distribution ~~into, out of, or within this state~~ prescription drugs must be licensed by the Idaho Board of Pharmacy in accordance with the laws and rules of this state before engaging in wholesale distribution of prescription drugs, and every nonresident wholesale distributor, if it ships prescription drugs into this state, must be licensed by the Idaho Board of Pharmacy in accordance with the laws and rules of this state before engaging in wholesale distribution of prescription drugs. (7-1-93)(8-3-07)T

02. Reciprocity. ~~Those wholesale drug distributors not located within the state may obtain the license required by this rule on the basis of reciprocity if the out-of-state distributor possesses a valid license granted by another state pursuant to standards comparable to those in Idaho and the other state extends reciprocal treatment to distributors of this state.~~ **Exemption.** Manufacturers distributing their own federal Food and Drug Administration approved drugs and devices are exempt from the wholesale distributor licensing requirement unless federal law or regulation requires such manufacturers to be licensed in this state as wholesale distributors. (7-1-93)(8-3-07)T

323. MINIMUM ~~REQUIRED INFORMATION~~ REQUIREMENTS FOR LICENSURE.

01. Requirements Information Under Oath. The Idaho Board of Pharmacy requires the following information under oath from each wholesale drug distributor as part of the initial licensing procedure and as part of any renewal of such license: (7-1-93)(8-3-07)T

- a. The name, full business address, and telephone number of the licensee. (7-1-93)
- b. All trade or business names used by the licensee. (7-1-93)
- c. Addresses, telephone numbers, and the names of contact persons for the facility used by the licensee for the storage, handling, and distribution of prescription drugs. (7-1-93)(8-3-07)T
- d. The type of ownership or operation (i.e., partnership, corporation, or sole proprietorship). (7-1-93)
- e. The name(s) of the owner and/or operator of the licensee, including:
 - i. If a person, the name of the person. (7-1-93)
 - ii. If a partnership, the name of each partner, and the name of the partnership. (7-1-93)
 - iii. If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation, and the name of the parent company, if any. (7-1-93)
 - iv. If a sole proprietorship, the full name of the sole proprietor and the name of the business entity. (7-1-93)
- f. A list of all licenses and permits issued to the applicant/licensee by any other state that authorizes the applicant/licensee to purchase or possess prescription drugs. (8-3-07)T
- g. Any convictions of the applicant/licensee under any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances. (8-3-07)T
- h. Any felony convictions of the applicant/licensee under federal, state, or local law. (8-3-07)T

i. Any discipline of the applicant/licensee by a regulatory agency in any state for violating any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances. (8-3-07)T

j. The name of the licensee's designated representative for the facility, together with the personal information statement and fingerprints required for such individual pursuant to Paragraph 323.01.k. of these rules. (8-3-07)T

k. For each individual identified by the licensee as a designated representative pursuant to Paragraph 323.01.g of these rules, the licensee shall provide the following information: (8-3-07)T

i. The individual's places of residence for the past seven (7) years. (8-3-07)T

ii. The individual's date and place of birth. (8-3-07)T

iii. The individual's occupations, positions of employment, and offices held during the past seven (7) years. (8-3-07)T

iv. The principal business and address of any business, corporation, or other organization in which each such office of the individual was held or in which each such occupation or position of employments was carried on. (8-3-07)T

v. Whether the individual during the past seven (7) years has been the subject of any proceeding for the revocation of any license or any criminal violation and, if so, the nature of the proceeding and the disposition of the proceeding. (8-3-07)T

vi. Whether the individual during the past seven (7) years has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from either violating any federal or state law or regulation the possession, control, or distribution of prescription drugs or criminal violations, together with details concerning any such event. (8-3-07)T

vii. A description of any involvement by the individual during the past seven (7) years with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, which manufactured, administered, prescribed, distributed, or stored pharmaceutical products, and any lawsuits in which such businesses were named as a party. (8-3-07)T

viii. A description of any felony criminal offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere. If the individual has a criminal conviction under appeal and a copy of the notice of appeal of that criminal offense is submitted to the Board, the licensee must submit to the Board within fifteen (15) days after disposition of the appeal a copy of the final written order of disposition. (8-3-07)T

ix. A photograph of the individual taken in the previous year. (8-3-07)T

02. License Required for Each ~~Location~~ Facility. ~~Where operations are conducted at more than one (1) location by~~ If a single wholesale distributor distributes prescription drugs from more than one (1) facility, the wholesale distributor shall obtain a license for each such location shall be licensed by the Idaho Board of Pharmacy (7-1-93)(8-3-07)T

03. Changes in Information Must Be Submitted to Board. Changes in, or corrections to, any information in this Section provided pursuant to Subsection 323.01 of these rules shall be submitted to the Idaho Board of Pharmacy under oath at the time of license renewal. (7-1-93)(8-3-07)T

04. Requirement for Bond or Equivalent Security. Every wholesale distributor required to be licensed in this state shall submit to the Idaho Board of Pharmacy a bond of not less than one hundred thousand dollars (\$100,000), or other equivalent means of security acceptable to the Board and payable to the Board, such as an irrevocable letter of credit issued by a third party acceptable to the Board or a deposit in a trust account or financial

institution acceptable to the Board. Such bond or equivalent security shall secure payment of any administrative fines or penalties imposed by the Board and any fees or costs incurred by the Board regarding that licensee when those fines, penalties, fees, or costs are authorized under the laws of this state and the licensee fails to pay thirty (30) days after the fines, penalties, fees, or costs become final. The Board may make a claim against such bond or equivalent security until one (1) year after the licensee's license cease to be valid. A single bond may suffice to cover all facilities operated by the licensee in this state. (8-3-07)T

05. Separate Fund for Deposit of Bonds. The Board shall deposit the bonds required pursuant to Subsection 323.04 of these rules in a fund established by the Board separate from its other accounts. (8-3-07)T

06. Accreditation by VAWD. The Idaho Board of Pharmacy will recognize inspection and accreditation of wholesale distributors by the National Association of Board of Pharmacy's Verified-Accredited Wholesale Distributors (VAWD) program. (8-3-07)T

07. License by Reciprocity. The Idaho Board of Pharmacy may license by reciprocity a wholesale distributor that is licensed under the laws of another state if the applicant is accredited by the National Association of Board of Pharmacy's Verified-Accredited Wholesale Distributor's (VAWD) program. (8-3-07)T

324. MINIMUM QUALIFICATIONS.

01. Mandatory Denial of Licensure for Wholesale Distribution of Drugs. The Idaho Board of Pharmacy shall not issue a wholesale distributor license to an applicant if the designated representative does not meet all of the following qualifications: (8-3-07)T

a. Is at least twenty-one (21) years of age. (8-3-07)T

b. Has been employed full-time for at least three (3) years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and recordkeeping related to, prescription drugs. (8-3-07)T

c. Is employed by the applicant full-time in a managerial level position. (8-3-07)T

d. Is actively involved in and aware of the actual daily operation of the wholesale distributor. (8-3-07)T

e. Is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized including, but not limited to, sick leave and vacation leave. (8-3-07)T

f. Is serving in the capacity of a designated representative for only one (1) applicant at a time, except where more than one (1) licensed wholesale distributor is co-located in the same facility and such wholesale distributors are members of an affiliated group, as defined in Section 1504 of the Internal Revenue Code. (8-3-07)T

g. Does not have any convictions under any federal, state, or local law relating to wholesale or retail prescription drug distribution or distribution of controlled substances. (8-3-07)T

h. Does not have any felony convictions under federal, state, or local law. (8-3-07)T

012. Other Eligibility for Licensure for Wholesale Distribution of Drugs Factors. Besides the qualifications of the applicant's designated representative, ~~The~~ Idaho Board of Pharmacy will consider the following factors in determining the applicant's eligibility for licensure ~~of persons who engage in the~~ as a wholesale ~~distribution of drugs~~ distributor. (7-1-93)(8-3-07)T

a. Any convictions of the applicant under any federal, state, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances. (7-1-93)

b. Any felony convictions of the applicant under federal, state, or local laws. (7-1-93)

- c. The applicant's past experience in the manufacture or distribution of drugs, including controlled substances. (7-1-93)
- d. The furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution. (7-1-93)
- e. Suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances. (7-1-93)
- f. Compliance with licensing requirements under previously granted licenses, if any. (7-1-93)
- g. Compliance with the requirements to maintain and/or make available to the state licensing authority or to federal, state, or local law enforcement officials those records required to be maintained by wholesale drug distributors. ~~(7-1-93)~~(8-3-07)T
- h. Any other factors or qualifications the Idaho Board of Pharmacy considers relevant to and consistent with the public health and safety. (7-1-93)

023. Denial of License to Applicant. The Idaho Board of Pharmacy reserves the right to deny a license to an applicant if it determines that the granting of such a license would not be in the ~~public~~ interest ~~based on of the public health, safety, and welfare~~ ~~considerations~~. ~~(7-1-93)~~(8-3-07)T

325. PERSONNEL.

01. Employment of Adequate Personnel. The licensed wholesale distributor shall employ adequate personnel with the education and experience necessary to safely and lawfully engage in the wholesale distribution of drugs. ~~(7-1-93)~~(8-3-07)T

02. Continuing Training for Designated Representative. A licensed wholesale distributor's designated representative must receive and complete: (8-3-07)T

a. Continuing education programs specified by the Idaho Board of Pharmacy regarding federal and state laws regarding wholesale distribution of prescription drugs. (8-3-07)T

b. If no formal continuing education is specified by the Idaho Board of Pharmacy, training programs that address applicable federal and state laws regarding wholesale distribution of prescription drugs and are provided by qualified in-house specialists, outside counsel, or consulting specialists with capabilities to help ensure compliance. (8-3-07)T

326. MINIMUM REQUIREMENTS.

01. Requirements for Storage and Handling of Drugs. The following are required for the storage and handling of drugs, and for the establishment and maintenance of drug distribution records by wholesale drug distributors and their officers, designated representative, agents, ~~representatives~~, and employees. ~~(7-1-93)~~(8-3-07)T

02. Drug Facility Requirements. All facilities at which drugs are stored, warehoused, handled, held, offered, marketed, or displayed shall: (7-1-93)

a. Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations; (7-1-93)

b. Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions; (7-1-93)

c. Have a quarantine area for storage of prescription drugs that are outdated, damaged, deteriorated,

misbranded, or adulterated, or that are in medicate or sealed secondary containers that have been opened. (7-1-93)

d. Be maintained in a clean and orderly condition. (7-1-93)

e. Be free from infestation by insects, rodents, birds, or vermin of any kind. (7-1-93)

03. Security of Wholesale Drug Distribution Facilities. All facilities used for wholesale drug distribution shall be secure from unauthorized entry. (7-1-93)

a. Access from outside the premises shall be kept to a minimum and be well controlled. (7-1-93)

b. The outside perimeter of the premises shall be well lighted. (7-1-93)

c. Entry into areas where drugs are held shall be limited to authorized personnel (7-1-93)

d. All facilities shall be equipped with an alarm system to detect entry after hours. (7-1-93)

e. All facilities shall be equipped with a security system that will provide suitable protection against theft and diversion. (7-1-93)

f. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records. (7-1-93)

04. Proper Storage of Drugs. All drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs, or with requirements in the current edition of an official compendium. (7-1-93)

a. If no storage requirements are established for a drug, the drug may be held at "controlled" room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected. (7-1-93)

b. Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, and/or logs shall be utilized to document proper storage of drugs. (7-1-93)

c. The record keeping requirements in Subsection 326.07 shall be followed for all stored drugs. (7-1-93)

05. Examination of Materials. Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated drugs or drugs that are otherwise unfit for distribution. (7-1-93)

a. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to the contents. (7-1-93)

b. Each outgoing shipment shall be carefully inspected for identity of the drug products and to ensure that there is no delivery of drugs that have been damaged in storage or held under improper conditions. (7-1-93)

c. The record keeping requirements in Subsection 326.07 of this section shall be followed for all incoming and outgoing drugs. (7-1-93)

06. Returned, Damaged, and Outdated Drugs. Drugs that are outdated, damaged, deteriorated, misbranded, or adulterated shall be quarantined and physically separated from other drugs until they are destroyed or returned to ~~their supplier~~ the original manufacturer or third party returns processor. ~~(7-1-93)~~(8-3-07)T

a. Any drugs whose immediate or sealed outer or sealed secondary containers have been opened or used shall be identified as such, and shall be quarantined and physically separated from other drugs until they are either destroyed or returned to the ~~supplier~~ original manufacturer or third party returns processor. ~~(7-1-93)~~(8-3-07)T

b. If the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug shall be destroyed, or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity. (7-1-93)

c. In determining whether the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the wholesale drug distributor shall consider, among other things, the conditions under which the drug has been held, stored, or shipped before or during its return and the condition of the drug and its container, carton, or labeling, as a result of storage or shipping. (7-1-93)

d. The record keeping requirements in Subsection 326.07 shall be followed for all outdated, damaged, deteriorated, misbranded, or adulterated drugs. (7-1-93)

07. Record Keeping by Wholesale Drug Distributors. Wholesale drug distributors shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs. (7-1-93)

a. The records shall include: (7-1-93)

i. The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped. (7-1-93)

ii. The identity and quantity of the drugs received and distributed or disposed of. (7-1-93)

iii. The dates of receipt and distribution or other disposition of the drugs. (7-1-93)

b. Inventories and records shall be made available for inspection and photocopying by any authorized official of any governmental agency charged with enforcement of these rules for a period of two (2) years following disposition of the drugs. (7-1-93)

c. Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. (7-1-93)

d. Records kept at a central location apart from the inspection site and not electronically retrievable shall be made available for inspection within two (2) working days of a request by an authorized official of any governmental agency charged with enforcement of these rules. (7-1-93)

327. WRITTEN POLICIES AND PROCEDURES.

Wholesale drug distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. (7-1-93)

01. Distribution of Oldest Approved Stock First. A procedure whereby the oldest approved stock of a drug product is distributed first but may permit deviation from this requirement if such deviation is temporary and appropriate. (7-1-93)

02. Procedure for Recalls and Withdrawals. A procedure to be followed for handling recalls and withdrawals of drugs that is adequate to deal with recalls and withdrawals due to: (7-1-93)

a. Any action initiated at the request of the Food and Drug Administration or other federal, state, or local law enforcement or other government agency, including the Idaho Board of Pharmacy. (7-1-93)

b. Any voluntary action by the manufacturer to remove defective or potentially defective drugs from the market. (7-1-93)

c. Any action undertaken to promote public health and safety by the replacing of existing merchandise with an improved product or new package design. (7-1-93)

03. Procedure for Crisis Situations. A procedure to ensure that wholesale drug distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency. (7-1-93)

04. Segregation and Disposal of Outdated Drugs. A procedure to ensure that any outdated drugs shall be segregated from other drugs and either returned to the original manufacturer or third party returns processor or destroyed which shall provide for written documentation of the disposition of outdated drugs and maintained for two (2) years after disposition of the outdated drugs. ~~(7-1-93)~~(8-3-07)T

328. RESPONSIBLE PERSONS. Wholesale drug distributors shall establish and maintain lists of officers, directors, managers, the designated representative, and other persons in charge of wholesale drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications. ~~(7-1-93)~~(8-3-07)T

(BREAK IN CONTINUITY OF SECTIONS)

331. PEDIGREE.

- 01. Pedigree Contents.** A pedigree for each prescription drug shall contain the following information: (8-3-07)T
- a. The proprietary and established name of the prescription drug.** (8-3-07)T
 - b. The container size of the prescription drug.** (8-3-07)T
 - c. The number of containers.** (8-3-07)T
 - d. The dosage form.** (8-3-07)T
 - e. The dosage strength.** (8-3-07)T
 - f. The lot number with expiration dates and the national drug code number of the prescription drug.** (8-3-07)T
 - g. The name of the manufacturer and repackager, if applicable, of the finished prescription drug product.** (8-3-07)T
 - h. The name, address, telephone number, and, if available, the e-mail address, of each owner of the prescription drug and each wholesale distributor of the prescription drug.** (8-3-07)T
 - i. The name and address of each location from which the prescription drug was shipped, if different from the owner's.** (8-3-07)T
 - j. The sales invoice number.** (8-3-07)T
 - k. The dates of each transaction.** (8-3-07)T
 - l. A certification that each recipient has authenticated the pedigree, back to the manufacturer.** (8-3-07)T

m. The name and address of each recipient of the prescription drug. (8-3-07)T

02. **Pedigree Format.** The pedigree format shall include the contents described in Subsection 331.01 of these rules and may be subject to the approval of the Idaho Board of Pharmacy. (8-3-07)T

03. **Requirement of a Pedigree.** Each person who is engaged in wholesale distribution of prescription drugs, including repackagers but excluding the original manufacturer of the finished form of the prescription drug, that leaves or has ever left the normal distribution channel shall, before each wholesale distribution of such drug, provide a pedigree to the person who receives such drug. A retail pharmacy or chain pharmacy warehouse shall comply with the pedigree requirement only if the retail pharmacy or chain pharmacy warehouse engages in wholesale distribution. (8-3-07)T

04. **Authentication.** Each person who is engaged in the wholesale distribution of a prescription drug, including repackagers but excluding the original manufacturer of the finished form of the prescription drug, who is provided a pedigree for a prescription drug and attempts to further distribute that prescription drug, shall affirmatively verify before any wholesale distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred. (8-3-07)T

05. **Maintenance of Pedigree.** The purchaser and the wholesale distributor of a prescription drug shall maintain the pedigree for not less than three (3) years from the date of sale or transfer. (8-3-07)T

06. **Availability of Records for Inspection.** Pedigrees shall be made available to the Idaho Board of Pharmacy for inspection within five (5) business days of a request from the Board. (8-3-07)T

3342. FAILURE TO COMPLY.

A wholesale distributor's violation of, or ~~failure to comply with,~~ these rules may result in ~~reprimand, suspension or revocation of license or other disciplinary action~~ imposition by the Idaho Board of Pharmacy of any one (1) or more of the penalties provided in Section 54-1728, Idaho Code. (7-1-93)(8-3-07)T

3323. -- 350. (RESERVED).

IDAPA 27 - BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY
DOCKET NO. 27-0101-0705
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-2726(4) and 54-1717, 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 October 17, 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 Board of Pharmacy is instituting a 24/7 electronic database for tracking controlled substance prescriptions. The rule is needed to comply with the directive of Section 37-2726(4), Idaho Code, that the Board promulgate rules to insure that only authorized individuals have access to the database.

The proposed rule establishes procedures for registration in order to access the database; for assignment of user accounts, log-in names, and passwords; for confidentiality; for discipline for the unauthorized disclosure of information or sharing of account information, log-in names, or passwords; and for information reports by non-practitioners.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jan Atkinson, Senior Compliance Officer, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

Jan Atkinson
Senior Compliance Officer
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0705

497. INFORMATION FROM CONTROLLED SUBSTANCES PRESCRIPTION DATABASE.

- 01. Authority.** These rules are promulgated as authorized by Section 37-2726(4), Idaho Code. ()
- 02. Definitions.** The definitions set forth in Section 37-2701, Idaho Code, shall apply to these rules. ()
- 03. Access to Online Prescription Monitoring Program.** Access to the Idaho Board of Pharmacy's online Prescription Monitoring Program shall be limited to licensed practitioners and licensed pharmacists who have registered with the Board. ()
- 04. Registration and Access Requirements.** In order to register with the Board and obtain access to the online Prescription Monitoring Program, a licensed practitioner or licensed pharmacist must: ()
- a. Complete the registration form available from the Idaho Board of Pharmacy;** ()
 - b. Obtain from the Board a user account, login name, and password; and** ()
 - c. Agree in writing that:** ()
 - i. No information shall be accessed from the Prescription Monitoring Program by a licensed practitioner having authority to prescribe controlled substances unless it relates specifically to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance;** ()
 - ii. No information shall be accessed by a licensed pharmacist having authority to dispense controlled substances from the Prescription Monitoring Program unless it relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance;** ()
 - iii. Information accessed from the Prescription Monitoring Program shall be kept confidential;** ()
 - iv. Information accessed from the Prescription Monitoring Program shall not be disclosed to any unauthorized person; and** ()
 - v. User account information, login names, and passwords shall not be shared with any person, regardless of whether or not that person is also an authorized user of the online Prescription Monitoring Program.** ()
- 05. Conditions on Access and Use.** Each of the following conditions applies to access to the online Prescription Monitoring Program and to use of information obtained from it. ()
- a. No licensed practitioner or licensed pharmacist authorized by the Board to access the online Prescription Monitoring Program shall share user account information, login names, or passwords with any person, regardless of whether or not that person is also an authorized user of the online Prescription Monitoring Program.** ()
 - b. A licensed practitioner having authority to prescribe controlled substances shall access the online Prescription Monitoring Program only to obtain information specifically related to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance.** ()
 - c. A licensed pharmacist having authority to dispense controlled substances shall access the Prescription Monitoring Program only to obtain information specifically related to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance.** ()

d. Information obtained from the Prescription Monitoring Program shall be kept confidential. ()

e. No information obtained from the Prescription Monitoring Program shall be disclosed to any unauthorized person. ()

f. No information obtained from the Prescription Monitoring Program shall be used for a purpose outside the licensed practitioner's or licensed pharmacist's scope of professional practice. ()

g. No licensed practitioner or licensed pharmacist shall permit any unauthorized person to utilize the practitioner's or pharmacist's user account, account name, or password in order to access the online Prescription Monitoring Program regarding any person or for any purpose. ()

06. Termination of Access and Discipline. Violation of these rules shall be grounds for suspension, revocation, or restriction of the licensed practitioner's or licensed pharmacist's authorization to access the online Prescription Monitoring Program; and shall be grounds for discipline of the licensed practitioner or licensed pharmacist and the imposition of penalties pursuant to Sections 54-1726 and 54-1728, Idaho Code. ()

07. Other Profile Requests. Profiles from the Prescription Monitoring Program may be obtained by those persons authorized by Section 37-2726(2), Idaho Code, to obtain such information, but who are not registered and authorized by the Board for online access, or are not eligible under these rules for registration and online access, by: ()

a. Completing the form provided by the Idaho Board of Pharmacy and mailing or faxing the completed form, along with any proof of identification and authorization required by the Board, to the Idaho Board of Pharmacy's office; or ()

b. By serving upon the Board a lawful order of a court of competent jurisdiction directing the Board to produce the profile to that court or to such person designated by the court in its order. ()

08. Additional Grounds for Discipline. A licensed practitioner or licensed pharmacist who obtains an individual's profile pursuant to Subsection 497.07 of these rules shall be subject to discipline and sanctions pursuant to Sections 54-1726 and 54-1728, Idaho Code, if: ()

a. The profile was obtained for an individual with whom the practitioner or pharmacist did not have a current practitioner/patient or pharmacist/patient relationship at the time the profile was requested; ()

b. The profile was requested for an unlawful purpose; ()

c. The information in the profile was used for an unlawful purpose; or ()

d. The profile or information from the profile was disclosed by the practitioner or pharmacist to an unauthorized person. ()

09. Duties, Powers, and Immunities. Nothing in these rules shall affect the Idaho Board of Pharmacy's duties and powers under Sections 37-2730a(2) and 37-2730a(3), Idaho Code, or the immunities granted by Section 37-2730a(4), Idaho Code. ()

~~497g.~~ -- 999. (RESERVED).

IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE

28.02.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 28-0203-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 3, 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 Sections 67-4715, 67-4717 and 67-4718, 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 October 17, 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:

The purpose of this rulemaking is to update language and concepts that related to previous changes and advances in technology. It is also necessary to update outdated language and to bring consistency between rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 67-4702, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The inconsistencies in language cause questions and confusion in the administration of existing Idaho Travel Council grants. These rule changes confer a benefit.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes proposed do not substantially change the existing rules, but remove outdated and inconsistent content.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cathy Bourner, 208 334-2670.

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 October 24, 2007.

DATED this August 30, 2007.

Cathy Bourner
Grant Analyst
Idaho Department of Commerce, Division of Tourism Development
700 W State St, Boise, ID
PO Box 83720, Boise, ID 83720-0094
208 334-2470
Fax 208 334-2631

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0203-0701

010. DEFINITIONS, REGIONAL/LOCAL/SPECIAL INTEREST PROMOTION.

The applicant must establish that the plan will attract more visitors to the region and keep them in the region longer. All plans must identify Idaho and market various attractions and events throughout the region. Regional applications must be a true region-wide promotion, and must promote the planning region as defined in the legislation. The following items are eligible projects: (5-3-03)

01. Advertising. Ranked Primary. Priority will be given to advertising that is image-driven and targets specific attractions or events within the region and ties to the state advertising plan. Markets, concepts, attractions and events will be defined in the application. If developed as a co-op, pre-approval is required by the Department of Commerce. Applicant must state in the application: (5-3-03)

- a. Objective and placement of advertising. (2-22-93)
- b. Geographic target audience. (2-22-93)
- c. Demographic target audience. (2-22-93)
- d. Fulfillment plans. (2-22-93)

02. Hospitality Training. Ranked Primary. Hospitality training will be an allowable item under the grant program. A detailed plan for the training must be included in the application. (~~2-22-93~~)(8-3-07)T

03. Convention Promotion. Ranked Primary. Trade shows (to be approved prior to the application process) and convention advertising. Concept and placement must be submitted with application. (2-22-93)

04. Site Visits/Familiarization Tours (FAMS). Ranked Primary. Tour Operators, Travel Writers, Convention Planners, Winters Sports Clubs and Airline Sales People are groups that can be invited for site visits and FAMS. Grant funds can be used for one hundred percent (100%) of travel and lodging expenses for FAM participants. Grant funds can also be used for in-state transportation, fuel expenses, rental vans, motorcoaches, invitations, baggage tags, information folders and miscellaneous snacks, such as coffee, soda pop, and candy bars. Grant funds cannot be used to pay for alcoholic beverages and attractions. FAMS must be coordinated and approved in writing by the Department of Commerce. (3-30-07)

05. Fulfillment. Ranked Primary. Includes expenses directly related to implementing ITC funded plan. ~~Eligible costs are for shipping, stuffing, sorting, envelopes, postage, eligible website costs per ITC guidelines, long distance phone calls and watts line.~~ Once the remaining elements of the grant are awarded, an additional ten percent (10%) of the total award, excluding any amount awarded for an audit, will be awarded for fulfillment. (~~3-30-07~~)(8-3-07)T

06. Travel and Trade Shows. Ranked Primary. Specific shows and the number of attendees per show shall be approved prior to the application process. The applicant must identify in the application whether or not a portable display booth is available and what literature will be distributed at the show. (2-22-93)

07. ~~Slide Shows~~/Videos. Ranked Tertiary. Applicant must state in the application the purpose of the ~~slide show~~ video, how it will be used to promote the area, and how the ~~slide show~~ video ties in with the applicant's overall marketing. (~~2-22-93~~)(8-3-07)T

08. Marketing Research. Ranked Primary. To allow marketing research in conjunction with the statewide marketing and research efforts. (2-22-93)

09. Capital Outlay. Ranked Secondary. Equipment with a useful life of more than one (1) year, costing one hundred fifty dollars (\$150) or more per unit. ~~No more than one (1) piece of any like equipment per Region.~~

~~(7-1-98)~~(8-3-07)T

- a.** Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant will vest upon acquisition with the grantee. (2-22-93)
- b.** Useful Life. The useful life of all equipment acquired through the travel grant program is five (5) years. (2-22-93)
- c.** Use. (2-22-93)
- i.** Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the ITC. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the ITC. (2-22-93)
- ii.** The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the ITC, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the ITC. (2-22-93)
- iii.** The grantee may not use equipment acquired with grant funds to provide services for a fee. (2-22-93)
- iv.** When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property; or, the proceeds will be reinvested into the grantee's current grant program, subject to the approval of the ITC. Sale proceeds are not cash match. (2-22-93)
- d.** Management Requirements. Capital outlay purchased with grant funds must be accounted for on the property record supplied by the ITC. When the property is initially purchased, the grantee will provide all the required information on the property record. Send the original to the Department of Commerce and keep a copy for your files. The property is tracked through its useful life. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements: (2-22-93)
- i.** Property records maintained must include a description of the property; a serial number or other identification number; the acquisition date and cost of the property; the location, use and condition of the property; and any ultimate disposition information including the date of disposal and sale price of the property. (2-22-93)
- ii.** The grantee will conduct an annual physical inventory of the property and the results will be reported to the ITC for reconciliation with the property records. This report will accompany the final narrative progress report, and must be received before final ITC reimbursement, to the grantee, is made. The ITC will conduct a physical inventory of the property at least once every two (2) years. (2-22-93)
- iii.** A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. (2-22-93)
- iv.** Adequate maintenance procedures must be developed to keep the property in good condition. (2-22-93)
- e.** Disposition. Disposition of equipment purchased with ITC funds will be made as follows: (7-1-98)
- i.** Items of equipment which have exceeded their useful life may be retained, sold or otherwise disposed of. It is recommended the sale proceeds be used to acquire like equipment or enhance the grantee's current grant program. Sale proceeds are not cash match. (2-22-93)
- ii.** Items of equipment which have not exceeded their useful life may be sold with written

authorization from the ITC. The grantee will be required to use the proceeds to purchase like equipment or to enhance the current grant program. (2-22-93)

f. Procurement. When procuring equipment under the travel grant program, the grantee will follow the same policies and procedures for purchases over five thousand dollars (\$5,000) as outlined in the Bid Process section of the administrative rules. (3-20-04)

g. Purchasable Equipment. A list of purchasable equipment under the travel grant program is listed below: (2-22-93)

i. Travel Show Booth (per ITC requirements). (2-22-93)

ii. Video Equipment: Player/Recorder, Television, Monitor, Camera. (2-22-93)

~~iii. Movie Projector. (2-22-93)~~

~~iv. Slide Projector. (2-22-93)~~

~~viii.~~ Computer Hardware per ITC guidelines. (5-3-03)

~~iv.~~ Equipment not listed above may be fundable at the discretion of the ITC. (2-22-93)

h. Rental Costs. Grantees are encouraged to complete projects in the most cost effective manner. If the purchase of equipment is not feasible due to a low use factor, the grantee will be allowed to enter into rental agreements to meet their equipment needs. Rental costs exceeding ~~five~~ twenty thousand dollars (~~\$50,000~~) will not be exempt from the travel grant program's bid process. (~~3-20-04~~)(8-3-07)T

i. Application. When applying for grant funds to acquire equipment, the applicant must stipulate need for equipment, its location, intended use, and contact person. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

200. MULTI-REGIONAL PROMOTION.

Grants that combine the resources of two (2) or more non-profit local/special interest organizations in different regions, in an effort to promote both regions, are encouraged and supported by the ITC. These grants are called multi-regional and require a ~~fifty~~ twelve and one-half percent (~~50~~12.5%) cash match. They must meet the following guidelines: (2-22-93)(8-3-07)T

01. Non-Profit Submittal. A non-profit organization in each of the affected regions must submit a grant application to the ITC/IDC. Such application must specify that the request is a multi-regional request and show a regional liaison. To improve chances for a grant award, the applicant should show support from their respective region. Additionally, each grant application must include: (2-22-93)

a. State of Idaho Certificate of Incorporation and Articles of Incorporation from the Secretary of State or a letter of determination from the Internal Revenue Service. (7-1-98)

b. Notice of Employer Identification number assigned by the IRS. (7-1-98)

02. Memorandum of Agreement. A written memo of agreement must be included with each multi-regional grant application designating each regional key player and describing their role. (2-22-93)

03. Subcontract. Upon receipt of the grant award, the affected organizations must either subcontract with one (1) of the other organizations or subcontract with an independent contractor to perform the work outlined in the application. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

203. INELIGIBLE PROJECTS.

The following grant activities will not be considered for funding: (2-22-93)

01. Administration Expense. Rent, phone, supplies, postage, photocopying, travel or other overhead associated with the ongoing normal administrative functions of any organization are not eligible. Expenses directly related to implementing ITC funded plans, *i.e., staff time, rent, and travel, will not be reimbursable to the grantee, but may be used as match* are to be paid out of the Administrative/Fulfillment amount awarded as ten percent (10%) of the total award, excluding any amount awarded for an audit. *A ceiling is placed on administrative expenses of up to ten percent (10%) of the ITC funds awarded.* (2-22-93)(8-3-07)T

02. Brochures. Printing of brochures and materials that does not deal strictly with travel or convention promotion is not eligible. (2-22-93)

03. Alternative Funding Sources. Printing of materials that may have alternative funding sources (i.e., regular chamber of commerce budgets) or that have been funded previously with the agency's own funds. (2-22-93)

04. Salary or Personnel. Salary or personnel expenses or expenses relative to personnel costs involving grant writing or administration are not eligible. (2-22-93)

05. Funding for Partial Projects. The ITC will not fund partial projects phased in over one (1) or more grant cycles. Projects must be completed during the contract period. This excludes fulfillment. (2-22-93)

06. Capital Outlay. Office equipment, signs, (other than the approved rest area signing) display cases, expenditures for buildings, additions or improvements to buildings will not be considered for funding. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

209. BID PROCESS.

01. Bids. Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over twenty thousand dollars (\$20,000). (3-30-07)

02. Documentation. Prior to reimbursement for each cost, the appropriate information shall be submitted to the Department of Commerce which documents the following: (2-22-93)

a. Item or service to be purchased. (7-1-98)

b. Informal bids are required for projects between one thousand five hundred dollars (\$1,500) and twenty thousand dollars (\$20,000). This consists of contacting three (3) vendors. Formal bids are required for projects greater than twenty thousand dollars (\$20,000). This requires three (3) written bids from vendors. (3-30-07)

c. List vendors contacted and their response (list those contacted whether or not a response was received). (7-1-98)

d. Justify why the successful vendor was selected. (2-22-93)

e. Annual renewal of the subcontract can be made without rebidding, upon execution of a new contract between the grantee and the subcontractor and approval by the Department of Commerce. This can be done only after the initial three (3) bids have been processed. Subcontract renewal is authorized for up to three (3) years beyond the initial contract year. (7-1-98)

~~f. If a vendor is going to donate part of his/her charges as match, he/she shall have been the lowest bidder. (2-22-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

222. PLAN SELECTION.

The Idaho Travel Council is responsible for the selection of plans to be awarded. Selection of Regional Travel and Convention Grants is as follows: (2-22-93)

01. Committee Presentation. At a regularly scheduled ITC meeting, applications for the Regional Travel and Convention Grant Program are presented, discussed and voted upon by the Idaho Travel Council. Grant applicants may be present to comment and answer questions. (2-22-93)

02. Contract Preparation. Once the Idaho Travel Council has selected plans to be funded, the Department of Commerce will notify all applicants, by letter, of their funding status. (2-22-93)

a. All contracts will be signed for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (2-22-93)

b. If applicable, special conditions of funding will be outlined. (2-22-93)

c. The grant will take effect upon the date of award. Grant monies cannot be obligated or expended until that date. No expenditures can be reimbursed until the contract is signed by the director of the Department of Commerce. (2-22-93)

d. Extensions and amendments shall be discouraged. However, in the event of an extension or amendment, the grantee may shift funds between line items according to the following schedule, up to twenty-five percent (25%) of the total ITC dollars awarded, between line items, not to exceed ten thousand dollars (\$10,000) during the entire grant cycle.

<u>Grants of</u>	<u>May Shift</u>	
<u>between \$1.00 and \$100,000</u>	<u>An amount equal to 25% of the grant</u>	<u>Not to exceed \$10,000</u>
<u>Between \$100,001 and \$250,000</u>	<u>An amount equal to 10% of the grant</u>	<u>Not to exceed \$25,000</u>
<u>of \$250,001 and over</u>	<u>An amount equal to no more than 5% of the grant</u>	<u>Without ITC Approval</u>

(8-3-07)T

e. To shift funds in excess of the limits in Subsection 222.02.d., ~~the~~ grantee must complete the appropriate amendment form, and ~~all~~ receive the approval of the regional ITC members ~~will vote on each amendment, for dollar amounts in excess of ten thousand dollars (\$10,000).~~ From the Department of Commerce, extensions of up to ninety (90) days can be granted. ~~(3-20-04)~~(8-3-07)T

IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE
28.03.04 - RULES OF THE BUSINESS AND JOBS DEVELOPMENT GRANT FUND
DOCKET NO. 28-0304-0701
NOTICE OF RULEMAKING - TEMPORARY RULE

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

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Sections 67-4715, 67-4717 and 67-4718, Idaho Code

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 purpose of this rulemaking is to change grant awards from \$200,000 to \$250,000 dollars.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 67-4702, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These rule changes confer a benefit.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes proposed do not substantially change the existing rules, but remove outdated and inconsistent content.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Pat Madarieta, 208 334-2650.

DATED this 30th day of August, 2007.

Pat Madarieta
Idaho Department of Commerce
700 W State St, Boise, ID
PO Box 83720
Boise, ID 83720-0094
208 334-2650
Fax 208 334-2631

THE FOLLOWING IS THE TEXT OF DOCKET NO. 28-0304-0701

015. AWARD AMOUNTS.

The amount of each grant shall be determined by the Director, in his sole discretion, but no grant shall exceed two hundred fifty thousand dollars \$2050,000. (3-30-07)(9-1-07)T

IDAPA 29 - IDAHO POTATO COMMISSION

29.01.01 - RULES OF PROCEDURE OF THE IDAHO POTATO COMMISSION

DOCKET NO. 29-0101-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-1201, et seq., 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 October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

To update commission location and contact information.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: It is necessary to protect the public health, safety, or welfare and it confers a benefit by clarifying contact information for those who do business with the Idaho Potato Commission.

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. However, this rule was developed with input from the potato industry which is affected.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact: Patrick J. Kole, VP Legal and Government Affairs, at (208) 334-2350.

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 October 24, 2007.

DATED this 23rd day of August, 2007.

Patrick J. Kole
VP Legal and Government Affairs
Idaho Potato Commission
661 S. Rivershore Lane, Suite 230, Eagle
PO Box 1670, Eagle, Idaho, 83616
Phone (208) 334-2350
Fax (208) 334-2274

THE FOLLOWING IS THE TEXT OF DOCKET NO. 29-0101-0701

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).

For rulemakings conducted before July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the order of proposed rulemaking and review of comments submitted in the order adopting these rules are maintained in the files of the Secretary of the Idaho Potato Commission and are available from the office of the Commission Secretary. The Commission Secretary may be contacted in writing at the Idaho Potato Commission, P.O. Box ~~1068 Boise~~ 1670 Eagle, Idaho ~~83701~~ 83616, or may be reached by telephone at (208) 334-2350. For rulemakings conducted after July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative bulletin proposing or adopting the rules. (~~11-27-93~~)(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

012. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 12).

The principal office of the Commission is in ~~Boise~~ Eagle, Idaho. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-2350. The Commission's FAX number is (208) 334-2274. The Commission's mailing address is: Idaho Potato Commission, Post Office Box ~~1068 Boise~~ 1670 Eagle, Idaho ~~83701-1068~~ 83616. The street address of the Commission is: ~~599 West Bannock Street, Boise, Idaho 83702-5983~~ 661 S. Rivershore Lane, Suite 230, Eagle, Idaho, 83616. All documents filed in all proceedings must be filed with the Commission at one of these addresses. (~~11-27-93~~)(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

241. NOTICE OF HEARING (RULE 241).

01. Timing of Notice. Notice of the place, date and hour of hearing will be served at least fourteen (14) days, or in the case of formal complaints, twenty-one (21) days, before the time set for hearing, unless the Commission finds by order that the public necessity requires the hearing to be held earlier. (11-27-93)

02. Contents of Notice. Notices must comply with Rule 242's requirements. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number, and the name of the hearing officer who will conduct the hearing if the case will not be heard by one or more Commissioners. If no document previously issued by the Commission has listed the legal authority of the Commission to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. (11-27-93)

03. Locations of Hearing. Hearings may be held in ~~Boise~~ Eagle, Idaho, or at other places designated by notice or order. (~~11-27-93~~)(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

286. TRANSCRIPTS (RULE 286).

01. Form of Transcripts -- Cover Sheet. Transcripts must be prepared on white eight and one-half

inch by eleven inch paper. The cover page of each volume of transcript must show the title of the proceeding, the case number, the presiding officer, the time and place of hearing, and other information as shown in the following example:

|BEFORE THE IDAHO POTATO COMMISSION

(TITLE OF PROCEEDING)

)

)

CASE NO. XXX-X-XX-XX

)

(COMMISSIONER Able Baker, Presiding)

(HEARING OFFICER Charlie Dog, Presiding)

(Date, e.g., January 21, 1983)

(Hearing Room, e.g., Commission Hearing Room)

(Address, e.g., ~~599 West Bannock, Boise~~ 661 S. Rivershore Lane, Suite 230, Eagle, Idaho)

~~(11-27-93)~~(9-1-07)T

02. Volumes of Transcript -- Indices to Volumes. Each day of hearing must be transcribed in a volume or volumes separate from other days of hearing. Each volume of transcript must begin with a list of the parties who appeared that day and their representatives at hearing that day. This list must be followed with a list of all witnesses whose testimony is reported in that volume, showing the pages at which each witness's testimony begins, what party (if any) called the witness, the pages upon which each other party's examination begins, the pages upon which each Commissioner's or hearing examiner's examination begins, and the pages upon which redirect examination or any party's, Commissioner's or hearing examiner's re-examination begins. These lists must be followed with a list showing all exhibits identified in that volume of transcript (including exhibits accompanying prepared testimony), the pages upon which they are first identified, and, if any exhibits are denied admission, the pages upon which the exhibits are denied admission. (11-27-93)

03. Matters Included in Transcript. The transcript must contain all discussions on the record while the hearing is in order. Unless otherwise directed by the Commission, the presiding officer, or the Commission Secretary, prepared testimony must be included in the transcript without change or retyping. Witness's corrections to prepared testimony should be made by distributing replacement pages to the reporter and describing those corrections on the record and/or distributing an errata sheet; unless otherwise directed, no corrections other than replacement pages will be made in the prepared testimony before it is incorporated in the transcript, except the reporter may make minor corrections by interlineation in the prepared testimony. Witnesses may have seven (7) days after hearing to distribute replacement pages to all parties and to the reporter, unless the Commission, the presiding officer or the Commission Secretary otherwise directs. (11-27-93)

04. Marginal Notes. The testimony of all witnesses reported in the transcript must be designated in the lower right margin by the witness's surname and the party sponsoring the witness's testimony. The type of testimony must be shown following the witness's surname as "Di" (direct or redirect), "X" (examination by any party not sponsoring the witness), or "Com" (examination by a Commissioner or hearing examiner). Examples of the designations required by this Rule follow: (11-27-93)

a. Accountant, Di; ABC Company; (11-27-93)

b. Accountant, Com; ABC Company; (11-27-93)

c. Discussions on the record that are not testimony or examination may be labeled “argument,” “decision,” “colloquy,” etc., to describe what is reported. (11-27-93)

05. Volume Size -- Number of Pages. Transcript volumes should not exceed three hundred (300) pages. Transcript volumes and pages of all proceedings on the record, including prehearing conferences, hearings, arguments, and any other proceedings on the record, must be numbered consecutively. For example, if a prehearing conference on the record preceded a hearing, the transcript volume and page numbers of the hearing would be numbered consecutively with that of the prehearing conference. (11-27-93)

IDAPA 29 - THE IDAHO POTATO COMMISSION
29.01.02 - RULES GOVERNING PAYMENT OF TAX AND USAGE OF
FEDERALLY REGISTERED TRADEMARKS

DOCKET NO. 29-0102-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-1201, et seq., 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 October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

- 1) To clarify IPC tax calculation and reporting method;
- 2) To modernize packaging rules; and
- 3) To make trademarks available for marketing purposes.

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

It is necessary to protect the public health, safety, or welfare and it confers a benefit by clarifying the tax rate and allowing the tax to be collected more uniformly and without ambiguity.

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:

Section 22-1211, Idaho Code was amended by the 2007 Legislature and signed by the Governor to increase the potato tax by \$.05 per hundred weight. Following the review required by statute, the Idaho Potato Commission voted unanimously to authorize an increase of \$.025. As the Idaho Potato Commission operates on a September 1 to August 31 fiscal year, this temporary rule is necessary to coincide with that fiscal year and avoid confusion within the industry.

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. However, this rule was developed with input from the potato industry which is affected.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact: Patrick J. Kole, VP Legal and Government Affairs, at (208) 334-2350.

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 October 24, 2007.

DATED this 23rd day of August, 2007.

Patrick J. Kole
VP Legal and Government Affairs
Idaho Potato Commission
661 S. Rivershore Lane, Suite 230
PO Box 1670, Eagle, Idaho, 83616
phone, fax: (208) 334-2350 / (208) 334-2274

THE FOLLOWING IS THE TEXT OF DOCKET NO. 29-0102-0701

IDAPA 29, TITLE 02, CHAPTER 02

**29.01.02 - RULES GOVERNING PAYMENT OF TAX AND USAGE OF
~~FEDERALLY REGISTERED~~ CERTIFICATION MARKS AND TRADEMARKS**

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 29.01.02, "Rules Governing Payment of Tax and Usage of Federally Registered Certification Marks and Trademarks." (3-15-02)(9-1-07)T

02. Scope. These rules govern payment of taxes to the Idaho Potato Commission (the Commission); records required to be kept by growers, dealers, handlers, shippers, processors, container manufacturers, and out-of-state repackers of Idaho® potatoes; use of Certification Marks and Trademarks owned or administered by the Commission; branding of individual potatoes, state brand grade and packing requirements, reporting, labeling and revocation, and additional labeling requirements. (3-15-02)(9-1-07)T

03. Citation. The official citation of these rules is IDAPA 29.01.02.000, et seq. For example, this rules is cited as IDAPA 29.01.02.001.03. In documents submitted to the Commission or issued by the Commission, these rules may be cited as Idaho Potato Commission "Rules Governing Payment of Tax and Usage of Federally Registered Certification Marks and Trademarks," IDAPA 29.01.02. (3-15-02)(9-1-07)T

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES.

For rulemakings conducted before July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the order of proposed rulemaking and review of comments submitted in the order adopting these rules are maintained in the files of the Secretary of the Idaho Potato Commission and are available from the office of the Commission Secretary. For rulemakings conducted after July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules maintained in the files of the Secretary of the Idaho Potato Commission and are available from the office of the Commission Secretary. The Commission Secretary may be contacted in writing at the Idaho Potato Commission, P.O. Box ~~1068~~ 1670, ~~Boise~~ Eagle, Idaho ~~83701~~ 83616, or may be reached by telephone at (208) 334-2350. (3-15-02)(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

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

The principal office of the Commission is in ~~Boise~~ Eagle, Idaho. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-2350. The Commission's

FAX number is (208) 334-2274. The Commission's mailing address: Idaho Potato Commission, Post Office Box ~~1068 1670, Boise Eagle, Idaho 83701-1068~~ 83616. The street address of the Commission is: ~~599 West Bannock Street, Boise, Idaho 83702-5983~~ 661 S. Rivershore Lane, Suite 230, Eagle, Idaho 83616. All documents filed in all proceedings must be filed with the Commission at one of these addresses. (3-15-02)(9-1-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Except as provided by Rules 52, ~~and~~ 233, and law, all materials filed with the Commission pursuant to these rules and all materials issued by the Commission pursuant to these rules are public documents subject to inspection, examination and copying. (3-15-02)(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL.

01. When Idaho Potato Commission Tax Is Due. The Idaho Potato Commission Tax shall be due on or before the time when such potatoes are first handled in the primary channels of trade and shall be paid not later than the fifteenth day of the month next succeeding the month in which such potatoes were handled in the primary channels of trade. See Section 22-1211, Idaho Code. (3-15-02)

02. Idaho Potato Commission Tax. There is hereby levied and imposed a tax of four cents (\$0.04) per hundredweight on potatoes covered by this act which tax shall be due on or before the time when such potatoes are first handled in the primary channels of trade and shall be paid not later than the fifteenth day of the month next succeeding the month in which such potatoes were handled in the primary channels of trade. In addition to the four cents (\$0.04) tax herein above provided for there is hereby levied and imposed an additional tax of ~~six~~ eleven cents (\$0.~~06~~11) per hundredweight on potatoes covered by this act; provided, however, said additional tax of ~~six~~ eleven cents (\$0.~~06~~11), or any portion thereof, shall only be due and collectible upon a determination by at least two-thirds (2/3) of the commission members that the anticipated expenditures for the next fiscal year following the year in which the determination is made will exceed the anticipated tax revenues to be collected from the said four cents (\$0.04) tax. Upon such a determination, the commission shall collect the additional ~~six~~ eleven cents (\$0.~~06~~11) tax or such portion thereof as is required by such determination, which shall be collected with, and as, other taxes imposed by this act. The person first selling or otherwise delivering potatoes into primary channels of trade shall be responsible for and make payment of all taxes imposed by this chapter. If such person is the dealer or shipper handling potatoes grown by another, he may charge against and recover from the grower of such potatoes or the person from whom he acquired them sixty percent (60%) of the tax. (3-15-02)(9-1-07)T

03. Definitions - as Used in These Rules. Section 22-1204, Idaho Code, defines terms used in these rules. (7-1-93)

04. Growers', Dealers', Handlers', Shippers', Processors' Container Manufacturers' and Out-of-State Repackers' Records. Idaho Potato Commission Tax Returns - Audits - Inspections. (3-15-02)(9-1-07)T

a. Every dealer or handler including out-of-state repackers shall keep a complete and accurate record of all potatoes handled by him in the primary channels of trade. Such record shall be in such form as the Commission's Executive Director, duly authorized agent, representative or employee shall prescribe. (7-1-93)(9-1-07)T

b. In addition to such other information that the Executive Director, duly authorized agent, representative or employee requires, each grower, dealer, handler, shipper, processor, container manufacturer, and out-of-state repacker shall keep records that segregates purchases and sales of Idaho® potatoes by calendar month; records of inventories of Idaho® potatoes by calendar month; and records of inventories of containers bearing the registered Certification Marks of the Commission by calendar month. Such records shall be preserved for a period of two years and shall be open to inspection at any time upon written or oral request or demand by the Commission or its duly authorized agents, representatives, or employees. (3-15-02)(9-1-07)T

c. The Commission's duly authorized agent, representative or employee may enter upon the premises of any grower, dealer, handler, out-of-state repacker, ~~food~~ container manufacturer, processor or any other license agreement holder of Idaho® potatoes and examine or cause to be examined any books, papers, records, ledgers, purchase journals, sales journals, electronically and/or magnetically recorded data, computers and computer records or memoranda bearing upon the amount of taxes payable or the correct usage of any Idaho Trade or Certification Mark, and to secure any other information directly or indirectly concerned with the enforcement of Chapter 12, Title 22, Idaho Code, all rules adopted pursuant thereto and all licensing agreements entered into with the Commission. The Commission's duly authorized agents, representatives or employees may also inspect and take samples of any potatoes, potato products or containers from the premises used by a grower, dealer, handler, shipper, processor, container manufacturer, or out-of-state repacker. Regular audits shall be routinely performed by the Commission or its duly authorized agents, representatives, or employees to assure adherence with these rules. In addition, compliance audits may take place at any time. For further requirements see Section 22-1212, Idaho Code. ~~(3-15-02)~~(9-1-07)T

05. Calculation of Tax Due. (3-15-02)

a. All first handlers of Idaho® Grown Potatoes shall pay the total tax due on all potatoes handled by them on a net weight basis, except as provided in Rule 100.05.b. Net weight shall be determined by subtracting from the gross scale weight the tare for dirt, rock and other foreign material only. Net weight shall then be multiplied by ninety percent (90%) which provides for a ten percent (10%) allowance for those potatoes that are unusable for human consumption. The amount of tax due is the tax rate currently imposed pursuant to Rule 100.02. multiplied by the hundredweight (cwt) calculated above. The following diagram illustrates the manner in which the formula is to be applied:

		Tare		90%		CWT	
Gross Scale Weight	Less	(Dirt, rock and other foreign materials ONLY)	X	(Allowance for potatoes unfit for consumption is 10%)	=	(Upon which TAX is DUE)	

(7-1-93)

b. Any first handler of Idaho® Grown Potatoes who does not have reasonable access to a scale to calculate the tax due on a net weight basis, may make application to the Commission's Executive Director for permission to use the following alternate procedure: (7-1-93)

i. Fresh Shipped Potatoes. On all Idaho® potatoes shipped fresh, a permitted handler shall pay the full Idaho Potato Commission Tax on all fresh shipments which meet State Grade Standards or Federal Fresh Market Standards whether sold interstate or intrastate. (3-15-02)

ii. Fresh Potatoes Not Meeting Grades. A ten percent (10%) discount per hundredweight shall be allowed on all intrastate shipments of fresh potatoes not meeting State Grade Standards or Federal Fresh Market Standards, such as culls or processing grade potatoes sold to processors, after tare is taken for dirt and foreign material only, to allow for that portion which is unusable for human consumption. Statements showing Idaho Potato Commission Tax liability shall be mailed to fresh shippers each month, and payment of Idaho Potato Commission Tax due to be made within thirty days of receipt of statement. This rule is not to be construed as authorizing any shipments of potatoes contrary to Section 22-901, Idaho Code. (3-15-02)

06. Tax Reports to Be Made by Growers, Dealers, Handlers, Shippers and Processors. A report on a form approved by the Commission, showing total weight handled for a given period of time and the Idaho Potato Commission tax due are to be sent to the Idaho Potato Commission office with the tax payment. These reports are to be made on forms furnished by the Commission and shall show such other information as the Commission may require. ~~(3-15-02)~~(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

102. CERTIFICATION MARKS FOR IDAHO® POTATO CONTAINERS.

01. Containers. All potatoes grown in Idaho and packed or repacked in containers in or outside of the state of Idaho shall be in containers printed, labeled or stenciled in a plain and legible manner with one (1) of the Commission's registered Certification Marks, and the "GROWN IN IDAHO®" Certification Mark. An exact reproduction of the Commission's Certification Marks appears in appendix A. Certification Marks may not be stamped on any Idaho® potato container without a temporary written variance. All containers must use Idaho specific approved produce code identification numbers, where the same have been obtained and approved. No container of Idaho® potatoes or potato products may be manufactured or used without prior written approval of the Commission or its employee. (~~3-15-02~~)(9-1-07)T

a. Upon written application, the Idaho Potato Commission may grant a variance from these rules for special purpose shipments for charity, certified seed, experimentation and processing. If a variance is granted, the applicant shall comply with all terms and conditions of such variance. If applicable, the application shall be accompanied by a valid Certificate of Privilege issued by the Idaho and Eastern Oregon Potato Committee, and the applicant shall furnish copies of all of the reports required by the Idaho and Eastern Oregon Potato Committee to the Idaho Potato Commission. (~~3-15-02~~)(9-1-07)T

02. Marks. No person, firm or corporation packing or repacking potatoes or potato products outside of the state of Idaho shall use any of the Commission's Certification Marks on any containers of potatoes or potato products packed or repacked outside the state of Idaho unless they have first executed an agreement for the use of the Certification Marks with the Idaho Potato Commission, and unless they are actually packing or repacking in such containers Idaho grown potatoes or potato products made from Idaho, grown potatoes. (3-30-01)

03. Agreement. No person, including without limitation manufacturers, container manufacturers, growers, shippers, processors and repackers, shall use or reproduce any of the Commission's Certification Marks on any container without first executing an agreement for the use of the marks with the Idaho Potato Commission. (7-1-93)

04. Recognition. Whenever the "GROWN IN IDAHO®," "IDAHO®," or other Certification Marks are used, recognition must be given that the marks are registered under the appropriate Federal statute. This recognition must be: by printing a legible capital "R" inside a circle (R)®, immediately after the word "IDAHO" or where designated by a duly authorized employee of the Commission. (~~3-30-01~~)(9-1-07)T

05. No Certification Mark. No Certification Mark shall be incorporated into any private label, brand or seal but shall be portrayed without embellishment as shown in appendix A. (3-30-01)

06. Not Incorporated. The word "IDAHO®," shall not be incorporated into any private label, brand or seal unless such label, brand or seal was registered with the U.S. Patent Office prior to January 1, 1966. (~~3-30-01~~)(9-1-07)T

07. Size. ~~When a~~ Certification Mark ~~is~~ shall be used on the front of a one hundred-pound (100) sack type container, it shall not be less than five (5) inches in diameter or width and shall not be placed closer than two (2) inches from the bottom of said container. ~~When a~~ Any Certification Mark ~~is~~ used on the rear of a one hundred-pound (100) sack type container, it shall not be less than twelve (12) inches in diameter or width. The marks may also be used on both the front and back of one hundred pound (100) sack type containers, if placed as indicated and in the sizes indicated. ~~Unless a variance has been approved by the Commission.~~ (~~3-15-02~~)(9-1-07)T

08. Limitation of Use. On fifty (50) pound sack type containers, a Certification Mark shall be used as on the one hundred (100) pound containers, but in proportionate sizes. (7-1-93)

09. Other Type Containers. On all sack type containers of less than fifty (50) pounds, a Certification Mark shall appear plainly visible on the front of the containers; and it shall be in relative proportion to brands, labels or other printed matter thereon, but not less than one and one-half (1 1/2) inches in diameter or width. ~~When registered and upon written approval by the Commission, a Spuddy Buddy Certification Mark may be used on a container.~~ (~~3-15-02~~)(9-1-07)T

- 10. Box Type Containers.** (3-30-01)
- a.** On all box type containers in which U.S. No. 1 grade Idaho® Potatoes will be packed, a Certification Mark may be located on the sides, ends or top of the container as desired, but shall be so placed and of such size as to be plainly visible. (3-15-02)
- b.** On all box type containers in which number two (2) grade Idaho, Potatoes will be packed, packing is permitted only when the following requirements are met: (3-30-01)
- i.** The container must be manufactured in a kraft, or non-colored cardboard material and be of a single piece construction; (3-30-01)
- ii.** The rectangular “Grown in Idaho®” certification mark shall be placed on each side and end panel of the container, with a width measurement of three and one-half (3 1/2) inches and length measurement of five and one-half (5 1/2) inches. The mark shall be located as shown in Appendix B; ~~(3-30-01)~~(9-1-07)T
- iii.** The certification mark “Idaho® Potatoes” shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B; ~~(3-30-01)~~(9-1-07)T
- iv.** The words “U.S. NO. 2” shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B and on one (1) of the top flaps of the container; (3-30-01)
- v.** The top one and three quarters (1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container; (3-30-01)
- vi.** One (1) of the elongated top flaps shall contain the “Grown in Idaho®” certification mark with a width of three and one-half (3 1/2) inches and length of five and one-half (5 1/2) inches, together with the certification mark “Idaho® Potatoes” in one (1) inch height and the words “U.S. NO. 2” in one (1) inch height; ~~(3-30-01)~~(9-1-07)T
- vii.** Product code identification numbers on containers bearing the certification marks shall use Idaho specific codes where the same have been obtained and approved; and (3-15-02)
- viii.** All other requirements regarding container packaging set forth in these rules and the license agreements of the Idaho Potato Commission apply to the use of this type of container. (3-30-01)
- 11. Tote Bin Type.** On all tote bin type containers, Certification Marks must be used on the front of said container but may be used elsewhere and shall not be less than twelve (12) inches in diameter or width. (7-1-93)
- 12. Identity of Commodity.** All containers bearing the marks shall specify the identity of the commodity contained therein and the name and place of business of the manufacturer, packer, licensee, or distributor of the commodity. Containers which do not comply with the rules of the Idaho Potato Commission shall not be used by any ~~manufacturer, packer or distributor~~ grower, dealer, handler, shipper, processor or out-of-state repacker for any potatoes or potato products subject to these rules. ~~(7-1-93)~~(9-1-07)T
- 13. Words Printed.** All potatoes grown in Idaho and packed or repacked in Idaho shall have the words “PACKED IN IDAHO” printed on the container. (7-1-93)
- 14. Sack Type Containers -- Fifty Pounds or Over.** On all sack type containers for fifty (50) pounds or over the words “PACKED IN IDAHO” shall be located on the front lower half of the container but not closer than six (6) inches to the bottom thereof. (7-1-93)
- 15. Sack Type Containers -- Less Than Fifty Pounds.** On all sack type containers containing less than fifty (50) pounds of potatoes the words “PACKED IN IDAHO” may be placed anywhere on the container but shall be so placed as to be plainly visible. (7-1-93)
- 16. Location of Words.** On all box type containers the words “PACKED IN IDAHO” may be located

on the ends, sides or top of the container but shall be so placed as to be plainly visible. (7-1-93)

17. Colors. All marks when used and the words "PACKED IN IDAHO" shall be in color or colors in contrast with the color of the container. (7-1-93)

18. Use. Only in connection with potatoes and potato products grown within the state of Idaho may growers, handlers, shippers, processors and packers use the name "IDAHO®" in any mark, label or stencil applied to containers for such produce and products. The growers, dealers, handlers, shippers, processors, and packers of potatoes within the state of Idaho are not precluded from processing, packing and shipping potatoes grown outside the state of Idaho so long as such potatoes are not misrepresented or misbranded as Idaho® Potatoes. (~~3-30-01~~)(9-1-07)T

19. Compulsory Printing. Printing of the mark "GROWN IN IDAHO®" and the words "PACKED IN IDAHO" is compulsory on all potato containers printed or contracted for after December 1, 1964. (~~3-30-01~~)(9-1-07)T

20. Idahos. The word "IDAHOS" shall not be used on any container for potatoes, potato products nor on any other printing or advertising material or correspondence used to identify or promote Idaho potatoes. (3-30-01)

21. Exemption. Only shipments of certified seed potatoes to destinations outside of the state of Idaho are exempt from this rule. (7-1-93)

22. Other Rules. Other rules on containers, grade and size are covered under Title 22, Chapter 9, Idaho Code, and applicable marketing orders. (7-1-93)

103. BRANDING, AND GRADE AND PACKAGING REQUIREMENTS OF STATE BRAND.

01. Branding or Marking of Individual IDAHO® Potatoes. (7-1-93)(9-1-07)T

a. Idaho® potatoes are considered to be branded when they are individually marked or identified as such. The methods of branding shall include: marking of individual potatoes by ink, heat, light, labeling, sticking, or puncturing and such other methods as may from time to time be authorized by the Idaho Potato Commission. (3-15-02)

b. The certification mark "Idaho®" shall be one (1) inch in length and one-quarter (1/4) inch in height unless prior Idaho Potato Commission written approval is secured and granted for any ~~variation~~ variance. (~~7-1-93~~)(9-1-07)T

c. The purchase or the leasing or use of branding machines shall be entirely voluntary. (7-1-93)

d. There shall be no limitations on the size and type of containers in which branded potatoes may be packed as long as they meet the licensing requirements of Rule 102. (7-1-93)

e. Grade for branding shall be U.S. No. 1 or better (as defined in the U.S. Standards effective March 27, 1991) and not less than two (2) inches in diameter or four (4) ounces in weight. (7-1-93)

f. Only Certification Marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. (3-15-02)

g. The operation of branding the word "Idaho®" upon potatoes shall be carried on only by licensees of the Idaho Potato Commission, and only upon such terms and conditions that will insure that only Idaho grown potatoes are branded as such. (3-15-02)

h. All varieties of potatoes grown in Idaho may be so branded. (3-15-02)

i. No person, firm or corporation may brand the word "Idaho®" on potatoes or sell machinery for the

purpose of branding potatoes with any of the Idaho certification marks unless granted the right to do so by written agreement with the Idaho Potato Commission. (3-15-02)

j. Branded potatoes must use Idaho specific, approved produce code identification numbers, where the same have been obtained and approved. (3-15-02)

k. On all branded potatoes using a standard size sticker, the Certification Mark “Idaho® Potatoes” shall be printed in eight (8) point type and the Certification Mark “Grown in Idaho®” shall be printed with a minimum height of eight point one hundred twenty-nine (8.129) mm and minimum width of five point thirty-seven (5.37) mm. (3-15-02)

02. State Brand Grade and Packaging Requirements. Idaho® potatoes shall meet all requirements of U.S. Extra No. 1 as defined in the U.S. Standards for Grades of Potatoes, March 27, 1991, with the following additions or exceptions: (7-1-93)

a. Mature. (7-1-93)

b. Fairly well shaped. Defined as excluding the lower limits of such classification. (7-1-93)

c. Appearance as related to russetting. Defined: at least seventy five percent (75%) of the surface of the individual potato shall be moderately netted which means the netting will be solid net-like in appearance. (7-1-93)

d. Size shall be two and one eighth (2-1/8) inches in diameter and four (4) ounces minimum, eleven (11) ounces maximum. Each lot shall meet the specifications of Size A as defined in 51.1545, Table I(2) of the Standards. (7-1-93)

e. Tolerances for grade defects are defined in 51.1546(a)(2), for U.S. No. 1. (7-1-93)

f. All other tolerances and definitions of the Standards apply. (7-1-93)

03. Packaging. (7-1-93)

a. Container Requirement: Maximum size not to exceed twenty (20) pounds. (7-1-93)

b. Miscellaneous Requirements: Use of the state brand packaging shall be entirely voluntary. Potatoes grown only in Idaho may be packed in state branded containers. State branded containers shall be packed only in Idaho. All varieties of potatoes grown in Idaho may be packed in state branded containers. The Commission shall require a written agreement between the Idaho Potato Commission and Idaho packers for the use of the state brand. All state branded containers shall be Federal-State inspected. (3-15-02)

c. The grade used in state brand containers shall be as defined in Rule 103.03 and “Idaho State Code 22-908” and “Federal-State Inspected” shall be printed in three-eighths (3/8) inch or larger letters, on front of each container. (7-1-93)

d. If individually branded Idaho® potatoes are packaged in state brand packaging they must meet grade requirements as defined in Rule 103.03. (7-1-93)

104. REPORTING, LABELING AND REVOCATION.

01. Reporting of Fresh Shipments of Potatoes. (7-1-93)

a. Effective July 1, 1976, growers, dealers, handlers, and shippers of Idaho® potatoes ~~who have a valid licensing agreement with the Idaho Potato Commission for the use of the “Grown in Idaho®” registered trademark on potato containers~~ are required to report shipments of all fresh Idaho grown potatoes ~~to designated geographical locations~~ giving information as to weight, packaging and type of receiver. Reporting forms will be furnished for this information by the Idaho Potato Commission ~~and information will be sent to and tallied by an~~

~~independent accounting firm~~. All information received ~~by this firm~~ will be kept in strictest confidence as to individual shipments. ~~(7-1-93)(9-1-07)T~~

b. The purpose of this information is to provide the Idaho Potato Commission with information concerning fresh potato sales in geographical marketing areas receiving Idaho® grown potatoes to enable it to design and evaluate advertising and marketing programs. (7-1-93)

02. Labeling Containers of Fresh Idaho® Potatoes to Indicate the Variety Packed Therein. ~~(7-1-93)(9-1-07)T~~

a. All potatoes grown in Idaho that are packed or repacked in containers in Idaho, or packed or repacked in containers outside of Idaho under an out-of-state packer license agreement, shall be packed or repacked in containers that are printed, marked, labeled or stenciled in a plain and legible manner that identifies the variety packed therein. (7-1-97)

b. No container may contain more than one (1) variety of potato, except as provided by written variance for non-russet variety potatoes. ~~(7-1-97)(9-1-07)T~~

c. Any mark, label or stencil required by this rule shall be conspicuously placed on the container and printed in a color contrasting with the background and shall be of a size determined as follows: (7-1-93)

i. For bags and other containers holding one hundred (100) pounds of potatoes or more, the letters of the label shall be at least one (1) inch high; (7-1-93)

ii. For bags and other containers holding fifty (50) pounds or more of potatoes, but less than one hundred (100) pounds, the letters of the label shall be at least three-fourths (3/4) of an inch high; (7-1-93)

iii. For bags or other containers holding less than fifty (50) pounds of potatoes, the letters on the label shall be five-eighths (5/8") of an inch high. (7-1-93)

iv. For containers holding less than five (5) potatoes, the letter on the label shall be in a size that is plainly visible and approved in writing by a duly authorized Commission employee. (9-1-07)T

d. Any person seeking authorization to comply with this rule in a manner other than that specified herein shall submit a written request to the Commission for approval of an alternate method of compliance, which alternative method shall be in substantial compliance with these standards and which request shall describe in detail the proposed alternate method of compliance. The Executive Director of the Commission or a duly authorized employee shall have the authority and responsibility to review such requests and rule whether they should be allowed, said determination to be based upon a finding that such alternate method has nor has not been shown to comply with the purpose and meet the standards of this rule; provided, any interested person may request in writing that the Commission grant a de novo review of said request at a subsequent regular meeting deemed convenient and appropriate by the Commission, which request the Commission may in its discretion, either grant or deny. ~~(7-1-93)(9-1-07)T~~

e. No potatoes grown in Idaho and packed or repacked in containers in Idaho, or packed or repacked outside of Idaho under an out-of-state packer license agreement, shall carry or be printed, labeled or identified with the GROWN IN IDAHO® or IDAHO® marks unless this rule is fully complied with as respects said potatoes. (7-1-93)

f. All persons growing potatoes in Idaho or packing or repacking in containers in Idaho, or packing or repacking outside of Idaho under an out-of-state license agreement, shall have the affirmative duty to avoid and refrain from ambiguous or misleading practices, acts or representations and to eliminate the same in marketing or handling Idaho® potatoes if such practice does or is likely to mislead any purchaser or consumer regarding the quality and variety of Idaho® potatoes purchased by such buyer or consumer. (7-1-93)

g. All persons licensed as of ~~January 3, 1996~~ October 31, 2007, shall have until August 31, ~~1996~~ 2008, to use existing supplies of containers and such use of existing supplies of containers shall not be a violation of

Rule 104.02.a. or 104.02.b.

~~(7-1-97)~~(9-1-07)T

03. Revocation of Right to Use Marks.

(7-1-93)

a. The Commission shall have the power to revoke the right of any person, firm or corporation to use any of the Commission's Certification Marks or Trademarks if such person, firm or corporation fails to pay any advertising tax assessed against it, license fees, or royalties, or fails to comply with any of these rules or applicable law.

~~(7-1-93)~~(9-1-07)T

b. Revocation of the right to use the Certification Marks or Trademarks shall not occur without reasonable notice of at least twenty (20) days and an opportunity for a hearing pursuant to Section 67-5242, Idaho Code. However, where the Executive Director determines that expedited action is necessary, he may:

~~(7-1-93)~~(9-1-07)T

i. Issue an order immediately suspending the right to use any of the Commission's Certification Marks or Trademarks pending a hearing, which hearing shall be held within twenty (20) days from the Executive Director's order; or

~~(7-1-93)~~(9-1-07)T

ii. Issue an order conditioning the right to use any of the Commission's Certification Marks or Trademarks pending a hearing, which hearing shall be held within twenty (20) days from the Executive Director's order; or

~~(7-1-93)~~(9-1-07)T

iii. Issue an order directing that the user of the Commission's Certification Marks or Trademarks show cause why the right to use the marks should not be suspended or conditioned further.

~~(7-1-93)~~(9-1-07)T

105. ADDITIONAL LABELING REQUIREMENTS, ~~FRESH~~ POTATOES (RULE 105).

01. Disclosure of Geographic Growing Area of Origin upon Potato Containers. All persons doing business in the state of Idaho are required to disclose the growing area of origin upon all potato containers ~~packed, repacked, handled or brokered by said person~~ in accordance with this rule and Section 22-1207, Idaho Code. For purposes of these rules, doing business in the state of Idaho means the doing of any of the acts which would subject a person to the jurisdiction of the courts of this state or defined in Section 5-514, Idaho Code.

~~(10-26-94)~~(9-1-07)T

02. Compliance for Idaho Grown Potatoes. For potatoes "Grown in Idaho®," this rule is complied with by meeting the requirements of Rule 102.

(10-26-94)

03. Compliance for Private Brands or Labels That Reference Idaho Locations. Private brands or labels of containers that reference an Idaho location, geographical feature or otherwise attempt to imply directly or indirectly that a container of potatoes contains potatoes grown in Idaho when in fact such is not the case are prohibited.

(10-26-94)

04. Compliance for Private Brands or Labels That Do Not Reference Idaho Locations. Private brands or labels that do not reference an Idaho location, geographical feature or otherwise attempt to imply directly or indirectly that a container of potatoes contains potatoes grown in Idaho when in fact such is not the case, but only have an Idaho address on the container, are permitted when approved by the commission or its designee. This rule is complied with by private brands or labels that:

(10-26-94)

a. Meet the requirements of Rule 104.02.c;

(10-26-94)

b. State the geographical state of origin of the potatoes followed by the word "potatoes"; and

(10-26-94)

c. The lettering size of the Idaho address on the container does not exceed one-half (1/2) inch for containers fifty (50) pounds or greater and one-quarter (1/4) inch for containers less than fifty (50) pounds. For example, for potatoes grown in the state of Washington, the phrase "Washington potatoes" would comply with these rules. The use of the words "Grown in" preceding the state of origin is prohibited.

(10-26-94)

106. ADDITIONAL REQUIREMENTS FOR USE OF TRADEMARKS (RULE 106).

01. Marks. No person is permitted to use any trademark owned or administered by the Commission unless authorized to do so pursuant to a license agreement entered into with the Commission. (9-1-07)T

02. Agreement. Trademarks owned or administered by the Commission may be licensed for use as permitted under federal and state law and as authorized by the Commission. (9-1-07)T

03. Royalty Fees. In addition to license fees, the Commission may set royalty fees for the use of trademarks. (9-1-07)T

04. Reproductions. Exact reproductions of the trademarks owned or administered by the Commission are set forth in Appendix C of these rules. (9-1-07)T

1067. -- 999. (RESERVED).

APPENDIX A



APPENDIX C (NEW GRAPHICS)



IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.12.01 - SYSTEMS OF ACCOUNTS FOR PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1201-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-524, 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 October 17, 2007.

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

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

The Commission's Uniform Systems of Accounts (USOA) Rules currently adopt through incorporation by reference the accounting regulations promulgated by the Federal Communications Commission and the Federal Energy Regulatory Commission relating to telephone, natural gas and electric utilities. The federal accounting regulations are contained in the Code of Federal Regulations (CFR). The Commission is proposing to update its USOA Rules by adoption of the 2007 editions of the CFR. The Commission is also proposing to make several housekeeping corrections to mailing addresses, telephone numbers, e-mail addresses and citations to other authorities.

FEE SUMMARY: There are no fees associated with this proposed rulemaking. N/A

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR parts mandated by federal agencies.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 24, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of August, 2007.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W Washington St.
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1201-0701

008. INCORPORATION BY REFERENCE (RULE 8).

Rule 101, 102, 103 and 104 incorporate by reference various federal accounting regulations and accounting standards issued by the National Association of Regulatory Utility Commissioners. Each applicable rule identifies the issuing entity for each regulation or standard and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. ()

0089. -- 100. (RESERVED).

RULES 101 THROUGH 200 -- UNIFORM SYSTEMS OF ACCOUNTS

101. UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC UTILITIES (RULE 101).

The Commission adopts by reference the Uniform System of Accounts for Major (previously Class A and B) Electric Utilities contained in the Code of Federal Regulations, Title 18, Part 101 (April 1, 2007), available from the Publications Division, U.S. Government Printing Office, Washington, D.C. 20402 Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated material is also available in electronic format at www.gpoaccess.gov/nara. These regulations, which were most recently revised in the Federal Register of October 3, 1985, 50 Fed.Reg. 40358, can be found in the annual volumes of the Code of Federal Regulations from 1986 through 1992. For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only for accounting and reporting and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All Class A and B Major electrical corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-93)()

102. UNIFORM SYSTEM OF ACCOUNTS FOR GAS UTILITIES (RULE 102).

The Commission adopts by reference the Uniform System of Accounts for Major (previously Class A and B) Natural Gas Companies contained in the Code of Federal Regulations, Title 18, Part 201 (April 1, 2007), available from the Publications Division, U.S. Government Printing Office, Washington, D.C. 20402 Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated material is also available in electronic format at www.gpoaccess.gov/nara. These regulations, which were adopted in the Federal Register of June 21, 1960, 25 Fed.Reg. 5616, can be found in the annual volumes of the Code of Federal Regulations from 1961 through 1992. For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only for accounting and reporting and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All Class A and B Major gas corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-93)()

103. UNIFORM SYSTEM OF ACCOUNTS FOR TELEPHONE UTILITIES (RULE 103).

The Commission adopts by reference the Uniform System of Accounts for Class A and B Telephone Utilities contained in the Code of Federal Regulations, Title 47, Part 32 (October 1, 2007), available from the Publications Division, U.S. Government Printing Office, Washington, D.C. 20402 Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated material is also available in electronic format at www.gpoaccess.gov/nara. These regulations, the majority of which were revised in the Federal Register of December 2, 1986, 51 Fed.Reg. 43499, and which were last amended in the Federal Register of December 7, 1988, 53 Fed.Reg. 49322, can be found in the annual volumes of the Code of Federal Regulations from 1988 through 1992. For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All Class A and B telephone corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-93)()

104. UNIFORM SYSTEM OF ACCOUNTS FOR WATER UTILITIES (RULE 104).

The Commission adopts by reference the Uniform System of Accounts for Class A and B Water Utilities, 1996 ~~version~~ Edition, published by the National Association of Regulatory Utility Commissioners (NARUC), available from NARUC at ~~1201 Constitution Avenue N.W., Suite 1102, P.O. Box 684~~ 1101 Vermont Avenue, NW, Suite 200, Washington, D.C. ~~20044-0684~~ 20005. The Uniform System of Accounts may be purchased from NARUC by calling 202-898-2280 or ordered online at www.naruc.org/storeindex.cfm. The accounts adopted by reference are adopted for the convenience of establishing uniform systems of accounts only and do not bind the Commission in any manner to any particular ratemaking treatment of items in these accounts. All Class A and B water corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. (7-1-98)()

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

DOCKET NO. 31-2101-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-503 and 61-507, 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 October 17, 2007.

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

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

The Commission is proposing several changes to clarify and refine the scope of some of its Utility Customer Relations Rules. The Commission proposes to clarify Rule 105 that customers and applicants may pay service deposits in two equal installments. Second, the Commission proposes to amend its Rules 203 and 204 to clarify that customer refunds will be credited to future bills unless the customer requests a refund. The Commission also proposes to limit the time period a utility may rebill an undercharged customer to six (6) months unless a reasonable person should have known of the inaccurate billing which resulted in the undercharge. Utilities must implement procedures designed to identify customers who have been inaccurately billed. Third, the Commission proposes to change Rules 300 and 600 by defining the term "written notice" to include e-mail when the customer has elected to receive electronic billing. Fourth, the Commission proposes to clarify and restructure its Rule 311 dealing with restrictions when service may be denied or terminated and proposes to generally prohibit service termination on Fridays with some exceptions. The Commission is also proposing to clarify that a utility is not required to provide service to an applicant who is not connected at the time of application. Finally, Rules 302 and 310 would provide that a utility is not required to connect service for a customer or applicant who owes money on an existing account or a previous account if the unpaid bill is for service provided within the last four (4) years.

FEE SUMMARY: There are no fees associated with this proposed rulemaking. N/A

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, formal negotiated rulemaking was not conducted because two (2) utility workshops were held in June and July to address the general concepts supporting the possible revisions to these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Beverly Barker, Consumer Assistance Supervisor, at (208) 334-0302 or Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 24, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 24th day of August, 2007.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W Washington
Boise, Idaho 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-2101-0701

105. AMOUNT OF DEPOSIT (RULE 105).

01. Amount of Deposit. A deposit allowed pursuant to Rule 101 as a condition of service shall not exceed one-sixth (1/6) the amount of reasonably estimated billing for one (1) year at rates then in effect. ~~For customers who use~~ Where gas service is used for space heating purposes only, the deposit shall not exceed the total of the two (2) highest months' bills during the previous twelve (12) consecutive months, adjusted for currently effective rates. Deposit amounts shall be based upon the use of service at the premises during the prior year or upon the type and size of ~~customer's~~ equipment using the utility's service. (5-3-03)()

02. Installment Payments of Deposit. The utility shall ~~provide~~ advise the applicant ~~an opportunity to pay or customer that~~ the deposit may be paid in two (2) installments. ~~The applicant shall be allowed to pay o~~ One-half (1/2) of the deposit amount ~~at the time of application,~~ shall be due immediately with the remaining installment payable in one (1) month. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

203. BILLING UNDER INAPPROPRIATE TARIFF SCHEDULE (RULE 203).

01. Rebilling Required. If a customer was billed under an inappropriate tariff schedule, the utility shall recalculate the customer's past billings and correctly calculate future billings based on the appropriate tariff schedule. A customer has been billed under an inappropriate tariff schedule if: (7-1-93)

a. The customer was billed under a tariff schedule for which the customer was not eligible; or (7-1-93)

b. The customer was billed under a tariff schedule based upon information supplied by the customer but the customer's actual demand is insufficient to meet the minimum eligibility requirements for the selected tariff schedule; or ()

~~b.c.~~ The customer, who is eligible for billing under more than one (1) tariff schedule, was billed under a schedule contrary to the customer's election, or the election was based on erroneous information provided by the utility. (7-1-93)

02. Exceptions. The utility shall not be required to adjust billings when it has acted in good faith based upon available information or when the customer was given written notice of options under the tariff schedules and did not make a timely election to exercise available options. (7-1-93)

03. Rebilling Time Period. When the customer has been overcharged, the period for which rebilling under this rule is allowed shall be that not exceed three (3) years as provided by Section 61-642, Idaho Code, (three

~~(3) years). When the customer has been undercharged, the period for rebilling shall be limited to six (6) months unless a reasonable person should have known of the inappropriate billing, in which case the rebilling period may be extended. Utilities shall implement procedures designed to monitor and identify customers who may be billed under an inappropriate tariff schedule.~~ (7-1-93)()

04. Refunds and Additional Payments. The utility shall promptly prepare a corrected billing indicating the refund due the customer or the amount due the utility. ()

a. A customer who has been underbilled charged shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling charge accrued. ()

b. The utility shall promptly calculate refund amounts overpaid by the customer unless the customer consents to a and issue a credit on the customer's next bill. Any remaining credit balance may be credited against future bills, except overbillings not exceeding fifteen dollars (\$15) may be credited to future bills unless the customer, after notice from the utility, requests a refund. The utility shall advise the customer of the option to have any remaining credit balance refunded to the customer. (7-1-93)()

204. INACCURATELY BILLED SERVICE UNDER CORRECT TARIFF SCHEDULE -- FAILURE TO BILL FOR SERVICE (RULE 204).

01. Errors in Preparation -- Malfunctions -- Failure to Bill. Whenever the billing for utility service was not accurately determined because for reasons such as a meter malfunctioned or failed, bills were estimated, metering equipment was incorrectly programmed, or bills were inaccurately prepared, the utility shall prepare a corrected billing. If the utility has failed to bill a customer for service, the utility shall prepare a bill for the period during which no bill was provided. (7-1-93)()

02. Corrections ~~Rebiling~~ Time Period. ()

a. If the time when the malfunction or error began or the time when the utility began to fail to bill for service cannot be reasonably determined to have occurred within a specific billing period, the corrected billings shall not exceed the most recent six (6) months before the discovery of the malfunction, error, or failure to bill. ()

b. If the time when the malfunction, error, or failure to bill began can be reasonably determined and the utility determines the customer was overcharged, the corrected billings shall go back to that time, but not to exceed three (3) years from the time the error or malfunction occurred as provided by Section 61-642, Idaho Code; (three (3) years). (7-1-93)()

c. If the time when the malfunction or error can be reasonably determined and the utility determines the customer was undercharged, the utility may rebill for a period of six (6) months unless a reasonable person should have known of the inaccurate billing, in which case the rebilling may be extended. Utilities shall implement procedures designed to monitor and identify customers who have not been billed or who have been inaccurately billed. ()

03. Refunds and Additional Payments. The utility shall promptly prepare a corrected billing indicating the refund due to the customer or the amount due the utility. A customer who has been underbilled or who has not been billed shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not billed. The utility shall promptly refund amounts overpaid by the customer unless the customer consents to a and issue a credit on the customer's next bill. Any remaining credit balance shall be credited against future bills, except overbillings not exceeding fifteen dollars (\$15) may be credited to future bills unless the customer, after notice from the utility, requests a refund. The utility shall advise the customer of the option to have any remaining credit balance refunded to the customer. (7-1-93)()

04. Additional Payments. The utility shall promptly prepare a corrected billing for a customer who has been undercharged indicating the amount owed to the utility. An unbilled or undercharged customer shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option,

the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not billed. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. FURTHER DEFINITIONS (RULE 300).

As used in Rules 301 through 313: (7-1-93)

01. Applicant. “Applicant” is restricted from its general definition to refer only to applicants for residential or small commercial service, unless further restricted by the rule. (7-1-93)

02. Customer. “Customer” is restricted from its general definition to refer only to residential or small commercial customers, unless further restricted by the rule. (7-1-93)

03. Non-Utility Service. “Non-utility service” means: (7-1-93)

a. Service for which the Commission does not regulate rates, charges, or availability of service; (7-1-93)

b. Service for which no rate or charge is contained in the utility’s tariffs; or (7-1-93)

c. Merchandise or equipment or charges for merchandise or equipment not required as a condition of receiving utility service. (7-1-93)

04. Written Notice. “Written notice” of the utility’s intent to deny or terminate service may be mailed or otherwise delivered to the applicant, resident, occupant, or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and consents to electronic notification. ()

(BREAK IN CONTINUITY OF SECTIONS)

302. GROUNDS FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (RULE 302).

A utility may deny or terminate service to a customer or applicant without the customer’s or applicant’s permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-93)

01. Failure to Pay. With respect to undisputed past due bills the customer or applicant: (3-20-04)

a. Failed to pay; (3-20-04)

b. Paid with a dishonored check; or (3-20-04)

c. Made an electronic payment drawn on an account with insufficient funds. (3-20-04)

02. Failure to Make Security Deposit. The customer or applicant failed to make a security deposit or make an installment payment on a deposit where it is required. (3-30-01)

03. Failure to Abide by Terms of Payment Arrangement. The customer or applicant failed to abide by the terms of a payment arrangement. (3-30-01)

04. Identity Misrepresentation. The customer or applicant misrepresented the customer’s or applicant’s identity for the purpose of obtaining utility service. (7-1-93)

05. Denial of Access to Meter. The customer or applicant denied or willfully prevented the utility's access to the meter. (7-1-93)

06. Willful Waste of Service. The utility determines as prescribed by relevant State or other applicable standards that the customer is willfully wasting service through improper equipment or otherwise. (7-1-93)

07. Service to Minors. The applicant or customer is a minor not competent to contract as described in Sections 29-101 and 32-101, Idaho Code. (3-20-04)

08. Previous Account Balance Owning. Nothing in this rule requires the utility to connect service for a customer or applicant who owes money on an existing account or from a previous account if the unpaid bill is for service provided within the past four (4) years (~~3-20-04~~)()

(BREAK IN CONTINUITY OF SECTIONS)

310. INSUFFICIENT GROUNDS FOR TERMINATION OR DENIAL OF SERVICE (RULE 310).

01. Termination of Service. No customer shall be given notice of termination of service nor shall the customer's service be terminated if: (~~7-1-93~~)()

01a. Unpaid Bill Less Than Fifty Dollars. The customer's unpaid bill cited as grounds for termination totals less than fifty dollars (\$50) or two (2) months' charges for service, whichever is less. (~~7-1-93~~)()

02b. Unpaid Bill Not Customer's. The unpaid bill cited as grounds for termination is for utility service to any other customer (unless that customer has a legal obligation to pay the other customer's bill) or for any other class of service. (~~7-1-93~~)()

03c. Non-Utility Service or Goods. ~~An~~ The unpaid bill results from the purchase of non-utility goods or services. (~~7-1-93~~)()

d. The unpaid bill is for service provided four (4) or more years ago unless the customer has promised in writing to pay or made a payment on the bill within the last four (4) years. ()

02. Denial of Service. No applicant shall be given notice of denial nor shall the applicant be denied service if any of the criteria listed in Subsection 310.01.b. through 310.01.d. apply. ()

311. ~~RESTRICTIONS ON TERMINATION OF SERVICE~~ TIMES WHEN SERVICE MAY BE DENIED OR TERMINATED -- OPPORTUNITY TO AVOID TERMINATION OF SERVICE (RULE 311).

01. When Denial or Termination ~~Not Allowed~~ of Service Is Prohibited. Except as authorized by Rule 303 or this rule, service provided to a customer, applicant, resident or occupant shall not be denied or terminated; ()

a. ~~On any Friday, after 12 noon, or on Saturday, Sunday, legal holidays recognized by the state of Idaho, or on any day immediately preceding any legal holiday;~~ ; ()

b. ~~At any time when the utility is not open for business, except as authorized by Rules 303.01 and 303.02;~~ ()

c. For failure to pay amounts in dispute while a complaint filed pursuant to Rule 402 is pending before this Commission; or ()

d. While a case placing at issue payment for utility service is pending before a court in the state of

Idaho unless authorized by court order. ()

02. Times When Service May Be Denied or Terminated. Service may be denied or terminated: ()

a. At any time when there is a dangerous condition pursuant to Rule 303.01 or the utility is ordered to do so pursuant to Rule 303.02; ()

b. Between the hours of 8 a.m. and 5 p.m., Monday through Thursday, for any reason authorized by Rules 302 and 303; ()

c. Between the hours of 8 a.m. and 5 p.m. on Friday for illegal use of service pursuant to Rule 303.03 or if the premises are unoccupied and service has been abandoned; or ()

d. ~~Between the hours of 45 p.m. and 9 p.m., Monday through Thursday, if the utility is unable to gain access to the customer's meter during normal business hours or for illegal use of service pursuant to Rule 303.03. Unless otherwise authorized by this rule, Rules 303.01 and 303.02, or the affected customer in writing, service may be terminated only between the hours of 8:00 a.m. and 4:00 p.m.~~ (4-11-06)()

023. Personnel to Authorize Reconnection. Each utility shall have personnel available ~~after the time of termination~~ who are authorized to reconnect service if the conditions cited as grounds for denial or termination are corrected to the utility's satisfaction. Service shall be reconnected as soon as possible, but no later than twenty-four (24) hours after the utility's conditions are satisfied and ~~the customer requests~~ reconnection is requested. (5-3-03)()

034. Opportunity to Prevent Denial or Termination of Service. Immediately preceding denial or termination of service, the employee designated to deny or terminate service shall identify himself or herself to the customer or other responsible adult upon the premises and shall announce the purpose of the employee's presence. This employee shall have in his or her possession the past due account record of the customer and shall request any available verification that the outstanding bills are satisfied or currently in dispute before this Commission. Upon presentation of evidence that outstanding bills are satisfied or currently in dispute before this Commission, service shall not be denied or terminated. The employee shall be authorized to accept full payment, or, at the discretion of the utility, partial payment, and in such case shall not deny or terminate service. Nothing in this rule prevents a utility from proceeding with denial or termination of service if the customer or other responsible adult is not on the premises at the time of termination. (5-3-03)()

045. Notice of Procedure for Reconnecting Service. The utility employee ~~of the utility~~ designated to deny or terminate service shall give to the customer or leave in a conspicuous location at the affected service address, ~~affected~~ a notice showing: the time of and grounds for denial or termination, steps to be taken to secure reconnection, and the telephone numbers of utility personnel or other authorized representatives who are available to authorize reconnection. (5-3-03)()

05. ~~No Termination While Complaint Pending.~~ ~~Except as authorized by order of the Commission or of the Judiciary, service shall not be terminated for failure to pay amounts in dispute while a complaint filed pursuant to Rule 402 is pending before this Commission or while a case placing at issue payment for utility service is pending before a court in the state of Idaho.~~ (7-1-93)

06. Applicant Without Service - Customer Requested Termination. Nothing in this rule prohibits a utility from denying service to an applicant who is not connected at the time of the application for service or from terminating service at any time pursuant to a customer's request. ()

(BREAK IN CONTINUITY OF SECTIONS)

403. RECORD OF COMPLAINTS (RULE 403).

01. Recordkeeping. Each utility must keep a written record of complaints and requests for conferences pursuant to Rules 401 and 402. These records must be retained for a minimum of one (1) year at the office of the utility where the complaints were received or conferences held. These written records are to be readily available upon request by the concerned customer, the customer's agent possessing written authorization, or the Commission. The records must show whether the customer or applicant was advised as required by Rule 401.0~~3~~2 that the customer or applicant may request the Commission to review the utility's proposed disposition of the complaint. (~~7-1-93~~)()

02. Reporting. Each utility must, at the Commission's request, submit a report to the Commission that states and classifies the number of complaints made to the utility pursuant to Rules 401 and 402, the general nature of their subject matter, how received (in person, by letter, etc.), and whether a Commission review was conducted. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

600. DEFINITIONS (RULE 600).

As used in Rules 601 through 605.

(7-1-93)

01. Advance Payment. "Advance payment" means a payment made prior to receiving service that will be credited to the customer's account at a later date. (7-1-93)

02. Applicant. "Applicant" means an applicant for industrial, large commercial or irrigation service. (7-1-93)

03. Customer. "Customer" means an industrial, large commercial or irrigation customer, unless further restricted by the rule. The Commission will maintain on file a list of which customer classes of a given utility are industrial, large commercial, and irrigation. (7-1-93)

04. Deposit. "Deposit" means any payment held as security for future payment or performance that is reimbursable. (7-1-93)

05. Written Notice. "Written notice" of the utility's intent to deny or terminate service may be mailed or otherwise delivered to the applicant, occupant or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and consents to electronic notification. ()

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.71.02 - RAILROAD ACCIDENT REPORTING RULES

DOCKET NO. 31-7102-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission proposes to repeal its Railroad Accident Reporting Rules. This action is authorized pursuant to Section 61-515, 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 October 17, 2007. The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Commission's address below.

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

IDAPA 31.71.02.101 of the Railroad Accident Reporting Rules adopts 47 C.F.R. Part 225.1 which requires all railroads to file a copy of an accident or incident report with the Commission when such report is required to be filed with the Federal Railroad Administration. The Commission is proposing to move the text of Rule 101 to the Railroad Safety/Sanitation Rules, IDAPA 31.71.03. This transfer is proposed in Docket No. 31-7103-0701. After the transfer of this one rule to the Railroad Safety/Sanitation Rules, the Commission proposes to repeal its Railroad Accident Reporting Rules at 31.71.02. Consolidating these rules will streamline the Commission's railroad rules.

FEE SUMMARY: There are no fees associated with this proposed rulemaking. N/A

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the proposed action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the rescission of these rules, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 24, 2007. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of August, 2007.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5983

IDAPA 31.71.02 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.71.03 - RAILROAD SAFETY/SANITATION RULES

DOCKET NO. 31-7103-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-515 and 61-515A, 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 October 17, 2007.

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

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

The Commission's Railroad Safety/Sanitation Rules currently adopt by reference federal hazardous material safety regulations. In particular, Rule 103.02 adopts the federal hazardous material regulations found in the Code of Federal Regulations (CFR) dated October 1, 2005. The Commission is proposing to update Rule 103.02 by adoption of the October 1, 2007 edition of the CFR. Major revisions included in the 2007 edition of the CFR include: Requiring "NON-ODORIZED" marking on certain packages including tank cars containing un-odorized liquid petroleum gas (Part 172); revising the transport requirements for infectious substances and regulated medical waste consistent with international standards (Parts 172, 173); and adopting new Internet options for registration and assessment of hazardous materials (Part 107).

The Commission is also proposing to add Rule 104 which was previously promulgated at IDAPA 31.71.02.101. Moving the accident reporting rule to this Chapter will allow the Commission to consolidate and streamline its railroad rules. By adding Rule 104, the Commission is also proposing to amend the title and scope of these rules and make other housekeeping changes (references to citations, websites, and public records compliance).

FEE SUMMARY: There are no fees associated with this proposed rulemaking. N/A

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR parts necessary for the safe transportation of hazardous materials by rail and accident reporting required by federal regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before October 24, 2007.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 21st day of August, 2007.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission Street address for express delivery:
PO Box 83720
Boise, ID 83720-0074 472 W Washington
Telephone: (208) 334-0338 Boise, Idaho 83702-5983
Facsimile: (208) 334-3762

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7103-0701

31.71.03 - RAILROAD SAFETY/~~SANITATION~~ AND ACCIDENT REPORTING RULES

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of these rules is "Railroad Safety/~~Sanitation~~ and Accident Reporting Rules." ()

02. Scope. The scope of these rules ~~is that they~~ set safety, ~~and~~ sanitation, and accident reporting standards that railroads must meet while operating in Idaho. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).

~~All correspondence with~~ Most documents regarding ~~to~~ these rules ~~is a~~ are public records. Accident investigative reports by the Commission or the Commission Staff may be investigatory records exempt from disclosure under Section 9-340B(1), Idaho Code. Accident reports required by these rules and the results of further investigations by the Commission are prohibited from admission into evidence in any action for damages based on or arising out of the loss of life or injury to the person or property pursuant to Section 61-517, Idaho Code. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

006. CITATION (RULE 6).

The official citation of these rules is IDAPA 31.71.03.000 et seq. For example, this rule is cited as IDAPA 31.71.03.006. In documents submitted to the Commission or issued by the Commission, these rules may be cited by their short title of Railroad Safety/~~Sanitation~~ and Accident Reporting Rules (~~RRSSR~~) and the parenthetical rule number. For example, this rule may be cited as ~~RRSSR~~ 6. (7-1-93)()

007. EFFECTIVE DATE -- HISTORY OF RULES (RULE 7).

The Commission adopted predecessors to these rules dating back at least to 1977. Prior to 1993, they were most recently codified at IDAPA 31.H and IDAPA 31.L. They were readopted and reformatted by rulemaking decision in Docket Number 31-7103-9301, effective July 1, 1993. The history of rulemaking proceedings preceding the initiation of the publishing of the Idaho Administrative Bulletin and the Idaho Administrative Code is available from the Commission Secretary. (7-1-93)()

008. INCORPORATION BY REFERENCE - CODE OF FEDERAL REGULATIONS (RULE 008).

The Code of Federal Regulations (CFR) is referred to in Rules 103 and 104. The annual volumes of the CFR may be obtained from the Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The full text of the CFR is also available in electronic format at ~~www.access.gpo.gov/nara~~ <http://origin.www.gpoaccess.gov/nara/>. The incorporated CFR Parts are also available for inspection and copying at the office of the Idaho Public Utilities Commission and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent annual recom compilations are also adopted by reference, but subsequent amendments to the CFR are not adopted by reference. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

**RULES 101 THROUGH 200 -- SAFETY, ~~AND~~
SANITATION CONDITIONS, ~~AND ACCIDENT REPORTING~~ FOR RAILROADS**

(BREAK IN CONTINUITY OF SECTIONS)

103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 103).

01. Hazardous Material Defined. "Hazardous material" means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

02. Adoption of Federal Safety Regulations. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2005~~7~~). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. (4-11-06)(____)

03. Recognition of Federal Exemptions. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)

104. REPORTING OF RAILROAD ACCIDENTS (RULE 104).

The Commission incorporates by reference 49 C.F.R. Part 225 (October 1, 2007). Pursuant to 49 C.F.R. 225.1, all railroads that are required to file a copy of any accident/incident report with the Federal Railroad Administration shall also file a copy of such report with the Commission Secretary for accidents or incidents occurring in Idaho. Copies of accident or incident reports shall be mailed to: Commission Secretary, Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074 ((208) 334-0338). Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to secretary@puc.idaho.gov. (____)

105. -- 999. (RESERVED).

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-0701 (FEE RULE)
NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature. The rule becomes final and effective upon adoption of the concurrent resolution, as authorized by 67-52254(5) (a), Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and Section 54-2020, Idaho Code, as amended by S 1109.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, pages 80 and 81.

FEE SUMMARY: The fee amounts formerly established in statute are now, as a result of Senate Bill 1109, required to be established as administrative rules. The fee amounts set in this rulemaking mirror those of the former statute, and no "new" fees are being imposed: \$25 for late license renewal; \$15 for printing a license certificate; \$10 to compile and copy certified license or education history; and \$50 to issue or renew branch office license.

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

There is no fiscal impact on the state general fund, since all licensing fee revenues are credited to the Special Real Estate Account.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeane Jackson-Heim, (208) 334-3285 ext 118, or Kimberly Coster (208) 334-3285 ext 115.

Dated this 20th day of August, 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 83720-0077
(208) 334-3285; (208) 334-2050 (fax)

DOCKET NO. 33-0101-0701 - ADOPTION OF PENDING FEE RULE

There are no substantive changes from the proposed rule text.
The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-7, July 4, 2007, pages 80 and 81.
This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-0702
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and Section 54-2027(6), Idaho Code, as amended by Senate Bill 1109.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, pages 82 through 84.

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 this pending rule, contact Jeane Jackson-Heim, (208) 334-3285 ext 118, or Kimberly Coster (208) 334-3285 ext 115

Dated this 20th day of August, 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)

DOCKET NO. 33-0101-0702 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.
The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-7, July 4, 2007, pages 82 through 84.
This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 33 - REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-0703
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2007, Section 54-2013, Idaho Code.

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

Wednesday, October 24, 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: DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

Amend Rule 121.01 to provide that the Notice, advising a licensee of his non-compliance with the errors and omissions insurance requirement, be sent first class mail and eliminate the requirement that it be sent "certified" mail.

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 through this rulemaking.

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

No negative fiscal impact to the general fund will result from this rulemaking.

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 October 24, 2007.

DATED this 20th, 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 83720-0077
(208) 334-3285; (208) 334-2050 (fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0703

121. FAILURE TO MAINTAIN INSURANCE.

Failure of a licensee to obtain and maintain insurance coverage required by Subsection 117.02 shall result in inactivation of any active license issued pursuant to Idaho Real Estate License Law or denial of any application for issuance or renewal of an active license. Failure to maintain insurance as required herein shall be deemed insufficient application for licensure under Section 67-5254, Idaho Code. (4-2-03)

01. Notice of Noncompliance. Within five (5) working days of the date the Commission is notified that a licensee does not have required coverage, the Commission shall notify the affected licensee of noncompliance. Notice shall be sent by ~~certified~~ first class mail to the licensee's business or residence address, as reflected in the Commission's records, and a copy of the notice shall be sent to the licensee's broker, if any. The notice shall provide that the licensee has ten (10) days in which to comply with the law and these rules regarding errors and omissions insurance. Failure to comply at the end of ten (10) days shall result in the license being automatically inactivated. (3-15-02)(Q)

02. Reactivation. Any licensee whose license has been inactivated for failure to comply with these rules shall be entitled to activate said license, relating back to and including the date of inactivation, provided that, within thirty (30) days of the date of inactivation, the licensee or Group Plan Administrator files with the Commission a certificate of coverage showing that such coverage has been and is currently in effect on and from the date of inactivation, with no lapse in coverage. Further, the licensee must submit required documents and fees to activate said license. In the event the certificate of coverage shows an effective date later than the date of inactivation, said license shall be activated as of the effective date of said insurance, as reflected in the certificate of coverage, and upon submission of any required documents and fees. (3-15-02)

03. Failure to Maintain Insurance. Failure of a licensee to maintain errors and omissions insurance or failure of a licensee to submit or cause to be submitted a certificate of coverage as required by Section 54-2013, Idaho Code, and in accordance with these rules and while engaging in the business of real estate broker or real estate salesperson, as defined in Sections 54-2002 and 54-2004, Idaho Code, shall constitute a violation of these rules, and shall be grounds for disciplinary action as provided in Sections 54-2059 and 54-2060, Idaho Code, including but not limited to the assessment of civil fines. (3-15-02)

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0701
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(s) 63-105 and 63-3039, 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 October 17, 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:

Rule 006: Income Tax Rule 006 is being amended to identify the Multistate Tax Commission (MTC) Web site as the location where the MTC regulations incorporated by reference can be accessed. This should be a more reliable source to reference for access to the information since the MTC document, "Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States" can be difficult to locate and may no longer be available.

Rule 031: Amend Income Tax Rule 031 to include information on what federal forms must be included in the Idaho return filed by a nonresident alien. These include Form 8843 (Statement for Exempt Individuals and Individuals With a Medical Condition) and Form 1042-S (Foreign Person's U.S. Source Income Subject to Withholding).

Rule 032: Section 63-3013, Idaho Code, provides a safe harbor exception to being a resident in Idaho. This provision should not be applied to military individuals due to federal law in the Servicemembers Civil Relief Act. Income Tax Rule 032 includes language that the safe harbor applies to a member of the armed forces so the rule is being amended to remove this information. To address questions regarding the commissioned corps of the National Oceanic and Atmospheric Administration and commissioned corps of the Public Health Service, the rule is being amended to discuss who qualifies as a servicemember under the federal law and who qualifies for the Idaho deduction in Section 63-3022(h), Idaho Code, because there are differences.

Rule 075: Amend Income Tax Rule 075 to add the table for the income tax brackets and rates for calendar year 2007.

Rule 108: Amend Income Tax Rule 108 consistent with House Bill 239, which was passed by the 2007 Idaho Legislature. It amended Section 63-3022, Idaho Code, to require a taxpayer to include in Idaho taxable income the amount transferred from an Idaho college savings account to a qualified tuition program operated by a state other than Idaho.

Rule 121: Amend Income Tax Rule 121 to better clarify the calculations related to the state tax addback that require rounding. The rule needs to be modified so that the text of the rule more clearly matches the calculations required.

Rule 125: Promulgate new Income Tax Rule 125 to address issues related to bonus depreciation. House Bill 13, which was passed by the 2007 Idaho Legislature, amended Section 63-3022O, Idaho Code, to change the provisions regarding bonus depreciation. The new rule helps to explain how the legislative changes are to be applied.

Rule 255: Amend Income Tax Rule 255 to better clarify the calculations related to the proration of exemptions and deductions of part-year residents and nonresidents that require rounding. The rule needs to be modified so that the text of the rule more clearly matches the calculations required.

Rule 275: Amend Income Tax Rule 275 consistent with House Bill 15, which was passed by the 2007 Idaho

Legislature. It amended Section 63-3026A, Idaho Code, to clarify when nonresident individuals are not required to pay Idaho income tax on investment income from Idaho investment partnerships. Change Subsection 275.02 from qualifying entity to qualified investment partnership and identify the qualifying criteria. Remove Subsection 275.03, which addressed investment in securities and is no longer relevant.

Rule 285, 286: Promulgate new Income Tax Rules 285 and 286 to address S corporations. House Bill 17, which was passed by the 2007 Idaho Legislature, amended Sections 63-3025 and 63-3025A, Idaho Code, to clarify the tax due by S corporations on built-in gains and excess net passive income. New Rule 285 addresses such issues as the tax on S corporations, when the minimum tax is due, the application of credit carryovers if an S corporation was previously a C corporation, the interaction between the tax on built-in gains/excess net passive income and the tax due by an S corporation when the election under Section 63-3022L, Idaho Code, is made, and how Idaho treats qualified subchapter S subsidiaries (QSSSs). New Rule 286 addresses multistate issues with regard to S corporations including the application of allocation and apportionment, exceptions to using the apportionment formula, information to provide to shareholders, protection under Public Law 86-272, and QSSSs.

Rule 582: Amend Income Tax Rule 582 consistent with House Bill 141, which was passed by the 2007 Idaho Legislature. It amended Section 63-3023, Idaho Code, to repeal Subsection (b), which exempted from the Idaho income tax banks and financial institutions that did not maintain an office in Idaho and carried on only limited activity in Idaho. Subsection 582.05 referenced Subsection 63-3023(b) and discussed the calculation of the apportionment factor attributes of such exempted taxpayers. Subsection 582.05 is no longer applicable and is being removed from the rule.

Rule 641: Amend Income Tax Rule 641 so that information related to intercompany eliminations for a water's edge combined report is consistent with language in Rule 600 (that they are made to the extent necessary to properly reflect combined income and to properly compute the apportionment factors of the water's edge combined group).

Rule 700: Amend Income Tax Rule 700 to better clarify the calculations related to the credit for tax paid to another state that require rounding. The rule needs to be modified so that the text of the rule more clearly matches the calculations required.

Rule 714: Amend Income Tax Rule 714 to more clearly explain the options for computing ITC on movable property. Clarify that a taxpayer can only claim ITC on the amount correctly included in his property factor numerator and that the taxpayer can not claim ITC on an overstated value by using the MTC special industry regulations when the taxpayer does not qualify as a special industry.

Rule 746: Amend Income Tax Rule 746 to remove references to Paragraph 745.04.a., which was removed from Rule 745 in 2006 rulemaking.

Rules 765, 766, 767, 799: House Bill 177, passed by the 2007 Idaho Legislature, enacted the new income tax credit for capital investment in biofuel infrastructure (Section 63-3029M, Idaho Code). Promulgate new Income Tax Rule 765 to address such topics as the tax years when the credit is allowed, when the qualified investment must be placed in service, what qualified investments include, limitations on claiming the credit, the carryover period, taxpayers entitled to the credit, a reference to Rule 785 which discusses how the credit passes through to owners of pass-through entities, and coordination with the ITC. Promulgate new Income Tax Rule 766 to address recapture and new Income Tax Rule 767 to address record-keeping requirements. Rules 766 and 767 are similar to the ITC rules, modified to address specific biofuel statutory requirements. Amend Income Tax Rule 799 to add the biofuel investment tax credit to the priority list of credits.

Rule 800: Amend Income Tax Rule 800 to delete the information regarding Idaho Form 40EZ, which is no longer available to be used by individuals in filing their Idaho return. Add a subsection to address verification of Idaho income tax withheld to require a taxpayer to attach appropriate Forms W-2 and 1099 and other information forms that verify the amount of the Idaho income tax withheld.

Rule 880: Amend Income Tax Rule 880 to add capital losses and Idaho credits in the discussion of the timely claim for refund when an adjustment to the taxpayer's federal return affects the calculation or application of an Idaho net operating loss. Add a requirement that before the Tax Commission can credit or refund an overpayment, the taxpayer making the claim must establish the basis for the credit or refund and the amount of the

overpayment in light of the Idaho Supreme Court decision in Baird Oil Company, Inc. v. The Idaho State Tax Commission.

Rule 946: Amend Income Tax Rule 946 to modify information that discusses when recapture is required consistent with House Bill 12, which was passed by the 2007 Idaho Legislature. It amended Section 63-4407, Idaho Code, to change the threshold of employment that triggers recapture for the Idaho small employer new jobs tax credit

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0701

006. INCORPORATION BY REFERENCE (RULE 006).

These rules incorporate by reference the following documents, which may be obtained from the main office of the Idaho State Tax Commission: (3-15-02)

01. MTC Special Industry Regulations. ~~This~~ These documents ~~is~~ are found in ~~in~~ “Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States,” November 2004 Edition, published by on the Multistate Tax Commission (MTC) Web site at www.mtc.gov/Uniformity.aspx?id=496, or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rules 580 and 581 of these rules. (4-11-06)(____)

02. MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This document is found in ~~in~~ “Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States,” November 2004 Edition, published by on the MTC Web site at www.mtc.gov/Uniformity.aspx?id=496, or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rule 582 of these rules. (4-11-06)(____)

(BREAK IN CONTINUITY OF SECTIONS)

031. ALIENS (RULE 031).

Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-20-97)

01. Idaho Residency Status. For purposes of the Idaho Income Tax Act, an alien may be either a resident, part-year resident, or nonresident, except a nonresident alien as defined in Section 7701, Internal Revenue Code, shall be a nonresident. See Paragraph 031.01.b., of this rule. (3-30-07)

a. An alien shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-30-07)

b. A nonresident alien as defined in Section 7701, Internal Revenue Code, is a nonresident for Idaho. If a nonresident alien has elected to be treated as a resident of the United States for federal income tax purposes, he shall determine his Idaho residency status as provided in Paragraph 031.01.a., of this rule. (3-30-07)

02. Computation of Idaho Taxable Income. (3-20-97)

a. To compute the Idaho taxable income of an alien, the first step is to determine his taxable income. This will depend on whether the alien is a resident, nonresident, or dual status alien for federal income tax purposes. (3-20-97)

b. Once the alien's taxable income has been computed, the amount of income subject to Idaho income tax depends on the alien's Idaho residency status. In general, if the alien qualifies as an Idaho resident, he is subject to Idaho income tax on all his taxable income regardless of its source. If the alien qualifies as a part-year resident or nonresident of Idaho, the amount of his taxable income subject to Idaho income tax is determined pursuant to Section 63-3026A, Idaho Code, and Rules 250 through 259 of these rules. (3-20-97)

c. In the case of a nonresident alien who does not elect to be treated as a resident for federal income tax purposes, the standard deduction is zero (0). However, a nonresident alien who qualifies as a student or business apprentice eligible for the benefits of Article 21(2) of the United States - India Income Tax Treaty is entitled to the standard deduction amount as if he were a resident for federal income tax purposes provided he does not claim itemized deductions. (7-1-99)

03. Filing Status. An alien shall use the same filing status for the Idaho return as used on the federal return. If for federal income tax purposes a married alien files as a nonresident alien and does not elect to be treated as a resident, the married alien shall use the filing status married filing separate on the Idaho return. (3-30-01)

04. Copy of Federal Forms Required. In addition to the requirements set forth in Rule 800 of these rules, a nonresident alien shall attach a copy of the following forms to his Idaho individual income tax return: ()

a. Form 8843 if filed with the IRS: ()

b. All Forms 1042-S received for the taxable year. ()

032. MEMBERS OF THE ~~ARMED FORCES~~ UNIFORMED SERVICES (RULE 032).

01. Idaho Residency Status. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that an individual on active duty with the United States Armed Forces is not a resident of or domiciled in Idaho solely as a result of being stationed in Idaho a servicemember will neither lose nor acquire a residence or domicile with regard to his income tax as a result of being absent or present in a state due to military orders. (4-6-05)()

a. A servicemember is defined to include any member of the uniformed services as that term is defined in 10 U.S.C. Section 101(a)(5). A member of the uniformed services includes: ()

i. A member of the armed forces, which includes a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard on active duty. It also includes a member of the National Guard who has been called to active service by the President of the United States or the Secretary of Defense of the United States for a period of more than thirty (30) consecutive days under 32 U.S.C. Section 502(f), for purposes of responding to a national emergency declared by the President and supported by federal funds. ()

ii. The commissioned corps of the National Oceanic and Atmospheric Administration in active service; and ()

iii. The commissioned corps of the Public Health Service in active service. ()

b. As a result of the Servicemembers Civil Relief Act: ()

i. A qualifying servicemember is not a resident of or domiciled in Idaho solely as a result of being stationed in Idaho. ()

ii. The safe harbor exception to being a resident of Idaho set forth in Section 63-3013(2), Idaho Code, shall not apply to a qualified service member. ()

ac. A qualifying service member is an Idaho resident only if he is domiciled in Idaho for the entire taxable year. The domicile of a qualified service member is presumed to be that member's military home of record until the qualified service member establishes a new domicile. (3-20-97)

bd. A qualified service member who is domiciled in Idaho for less than the entire taxable year is a part-year resident. (3-20-97)

ce. A qualified service member who is not domiciled in Idaho anytime during the taxable year is a nonresident. (3-20-97)

d. A member of the armed forces meeting the safe harbor exception set forth in Section 63-3013(2), Idaho Code, is not considered a resident of Idaho, even though Idaho is the person's military home of record. Any individual meeting the safe harbor exception to residency status is considered either a nonresident or part-year resident. (4-5-00)

ef. The Servicemembers Civil Relief Act does not affect the Idaho residency status of a spouse of a qualified service member. The spouse of a qualified service member shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (4-6-05)

02. Active Duty Military Pay. (3-20-97)

a. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that the active duty military pay of a qualified servicemember of the United States Armed Forces who is not domiciled in Idaho is exempt from Idaho income tax. The active duty military pay is not considered income from services performed within, or from sources within, Idaho. See Section 63-3026A(3)(c), Idaho Code. (4-6-05)()

b. The active duty military pay of a service member who is domiciled in Idaho is subject to Idaho income tax. However, Section 63-3022(h), Idaho Code, provides that compensation paid by the United States Armed Forces for military service performed outside Idaho is deducted from taxable income in determining the member's Idaho taxable income. A member of the armed forces does not include the commissioned corps of the National Oceanic and Atmospheric Administration or the commissioned corps of the Public Health Service, unless they have been militarized by Presidential Executive Order under Title 42, United States Code. See Section 63-3022(h), Idaho Code, for the specific qualifications of this deduction. (3-30-01)()

03. Military Separation Pay. Military separation pay received for voluntary or involuntary separation from active military service is not considered active duty military pay. Therefore, Subsection 032.02 of this rule does not apply. (4-6-05)

a. Military separation pay is included in Idaho taxable income only if the recipient is domiciled in or residing in Idaho when the separation pay is received. (3-20-97)

b. For purposes of this rule, a former active duty service member whose home of record at the time of separation from the military was a state other than Idaho is not deemed to be residing in Idaho if he moves from Idaho within thirty (30) days from the date of separation from active duty. (3-20-97)

04. Nonmilitary Income. All Idaho source income earned by a military service member is subject to Idaho taxation except as expressly limited by the Idaho Income Tax Act and these rules. (3-20-97)

05. Nonmilitary Spouse. Subsection 032.02 of this rule does not apply to the income earned by a nonmilitary spouse of a military service member. If the nonmilitary spouse is an Idaho resident, he is subject to Idaho taxation on his income from all sources. If the nonmilitary spouse is a nonresident or a part-year resident, he is subject to Idaho taxation on his income from all sources earned while residing in or domiciled in Idaho, plus his income from Idaho sources earned while not residing and not domiciled in Idaho. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075). Section 63-3024, Idaho Code. (3-20-04)

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate, beginning with calendar year 1987, are identified in Subsection 075.03 of this rule. For taxable years beginning after December 31, 1999, the Idaho income tax brackets are adjusted for inflation. For taxable years beginning on or after January 1, 2003, the maximum tax rate as listed for that taxable year in Subsection 075.03 of this rule shall apply in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-6-05)

02. Tax Computation. (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household shall be twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (5-3-03)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax would be computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount would then be multiplied by two (2). (5-3-03)

03. Tables Identifying the Idaho Tax Rates and Income Tax Brackets. (3-20-04)

a. For taxable years beginning in 1987 through 1999:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,000.00	\$0.00	+ 2% of taxable income
\$1,000.00	\$2,000.00	\$20.00	+ 4% of the amount over \$1,000.00
\$2,000.00	\$3,000.00	\$60.00	+ 4.5% of the amount over \$2,000.00

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$3,000.00	\$4,000.00	\$105.00	+ 5.5% of the amount over \$3,000.00
\$4,000.00	\$5,000.00	\$160.00	+ 6.5% of the amount over \$4,000.00
\$5,000.00	\$7,500.00	\$225.00	+ 7.5% of the amount over \$5,000.00
\$7,500.00	\$20,000.00	\$412.50	+ 7.8% of the amount over \$7,500.00
\$20,000.00 or more		\$1,387.50	+ 8.2% of the amount over \$20,000.00

(3-20-04)

b. For taxable years beginning in 2000:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,022.00	\$0.00	+ 1.9% of taxable income
\$1,022.00	\$2,044.00	\$19.42	+ 3.9% of the amount over \$1,022.00
\$2,044.00	\$3,066.00	\$59.28	+ 4.4% of the amount over \$2,044.00
\$3,066.00	\$4,088.00	\$104.25	+ 5.4% of the amount over \$3,066.00
\$4,088.00	\$5,110.00	\$159.44	+ 6.4% of the amount over \$4,088.00
\$5,110.00	\$7,666.00	\$224.85	+ 7.4% of the amount over \$5,110.00
\$7,666.00	\$20,442.00	\$413.99	+ 7.7% of the amount over \$7,666.00
\$20,442.00 or more		\$1,397.74	+ 8.1% of the amount over \$20,442.00

(3-20-04)

c. For taxable years beginning in 2001:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,056.00	\$0.00	+ 1.6% of taxable income
\$1,056.00	\$2,113.00	\$16.90	+ 3.6% of the amount over \$1,056.00
\$2,113.00	\$3,169.00	\$54.93	+ 4.1% of the amount over \$2,113.00
\$3,169.00	\$4,226.00	\$98.25	+ 5.1% of the amount over \$3,169.00
\$4,226.00	\$5,282.00	\$152.13	+ 6.1% of the amount over \$4,226.00
\$5,282.00	\$7,923.00	\$216.57	+ 7.1% of the amount over \$5,282.00
\$7,923.00	\$21,129.00	\$404.09	+ 7.4% of the amount over \$7,923.00
\$21,129.00 or more		\$1,381.30	+ 7.8% of the amount over \$21,129.00

(3-20-04)

d. For taxable years beginning in 2002:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,087.00	\$0.00	+ 1.6% of taxable income
\$1,087.00	\$2,173.00	\$17.38	+ 3.6% of the amount over \$1,087.00
\$2,173.00	\$3,260.00	\$56.50	+ 4.1% of the amount over \$2,173.00
\$3,260.00	\$4,346.00	\$101.04	+ 5.1% of the amount over \$3,260.00
\$4,346.00	\$5,433.00	\$156.46	+ 6.1% of the amount over \$4,346.00
\$5,433.00	\$8,149.00	\$222.73	+ 7.1% of the amount over \$5,433.00
\$8,149.00	\$21,730.00	\$415.59	+ 7.4% of the amount over \$8,149.00
\$21,730.00 or more		\$1,420.60	+ 7.8% of the amount over \$21,730.00

(3-20-04)

e. For taxable years beginning in 2003:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,104.00	\$0	+ 1.6% of taxable income
\$1,104.00	\$2,207.00	\$17.66	+ 3.6% of the amount over \$1,104.00
\$2,207.00	\$3,311.00	\$57.39	+ 4.1% of the amount over \$2,207.00
\$3,311.00	\$4,415.00	\$102.64	+ 5.1% of the amount over \$3,311.00
\$4,415.00	\$5,518.00	\$158.93	+ 6.1% of the amount over \$4,415.00
\$5,518.00	\$8,278.00	\$226.25	+ 7.1% of the amount over \$5,518.00
\$8,278.00	\$22,074.00	\$422.16	+ 7.4% of the amount over \$8,278.00
\$22,074.00 or more		\$1,443.06	+ 7.8% of the amount over \$22,074.00

(3-20-04)

f. For taxable years beginning in 2004:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,129.00	\$0	+ 1.6% of taxable income
\$1,129.00	\$2,258.00	\$18.06	+ 3.6% of the amount over \$1,129.00
\$2,258.00	\$3,387.00	\$58.70	+ 4.1% of the amount over \$2,258.00
\$3,387.00	\$4,515.00	\$104.98	+ 5.1% of the amount over \$3,387.00

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$4,515.00	\$5,644.00	\$162.55	+ 6.1% of the amount over \$4,515.00
\$5,644.00	\$8,466.00	\$231.41	+ 7.1% of the amount over \$5,644.00
\$8,466.00	\$22,577.00	\$431.78	+ 7.4% of the amount over \$8,466.00
\$22,577.00 or more		\$1,475.95	+ 7.8% of the amount over \$22,577.00

(4-6-05)

g. For taxable years beginning in 2005:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,159.00	\$0	+ 1.6% of taxable income
\$1,159.00	\$2,318.00	\$18.54	+ 3.6% of the amount over \$1,159.00
\$2,318.00	\$3,477.00	\$60.26	+ 4.1% of the amount over \$2,318.00
\$3,477.00	\$4,636.00	\$107.78	+ 5.1% of the amount over \$3,477.00
\$4,636.00	\$5,794.00	\$166.89	+ 6.1% of the amount over \$4,636.00
\$5,794.00	\$8,692.00	\$237.53	+ 7.1% of the amount over \$5,794.00
\$8,692.00	\$23,178.00	\$443.29	+ 7.4% of the amount over \$8,692.00
\$23,178.00 or more		\$1,515.25	+ 7.8% of the amount over \$23,178.00

(4-11-06)

h. For taxable years beginning in 2006, as calculated on June 7, 2006:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,198.00	\$0	+ 1.6% of taxable income
\$1,198.00	\$2,396.00	\$19.17	+ 3.6% of the amount over \$1,198.00
\$2,396.00	\$3,594.00	\$62.30	+ 4.1% of the amount over \$2,396.00
\$3,594.00	\$4,793.00	\$111.43	+ 5.1% of the amount over \$3,594.00
\$4,793.00	\$5,991.00	\$172.53	+ 6.1% of the amount over \$4,793.00
\$5,991.00	\$8,986.00	\$245.62	+ 7.1% of the amount over \$5,991.00
\$8,986.00	\$23,963.00	\$458.30	+ 7.4% of the amount over \$8,986.00
\$23,963.00 or more		\$1,566.59	+ 7.8% of the amount over \$23,963.00

(3-30-07)

i. For taxable years beginning in 2007, as calculated on May 17, 2007:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,237.00	\$0	+ 1.6% of taxable income
\$1,237.00	\$2,474.00	\$19.79	+ 3.6% of the amount over \$1,237.00
\$2,474.00	\$3,710.00	\$64.31	+ 4.1% of the amount over \$2,474.00
\$3,710.00	\$4,947.00	\$115.02	+ 5.1% of the amount over \$3,710.00
\$4,947.00	\$6,184.00	\$178.10	+ 6.1% of the amount over \$4,947.00
\$6,184.00	\$9,276.00	\$253.55	+ 7.1% of the amount over \$6,184.00
\$9,276.00	\$24,736.00	\$473.08	+ 7.4% of the amount over \$9,276.00
\$24,736.00 or more		\$1,617.13	+ 7.8% of the amount over \$24,736.00

()

(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (RULE 108).

Section 63-3022, Idaho Code.

(3-20-97)

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, add the taxable amount of a lump sum distribution excluded from taxable income. (3-30-01)

02. Withdrawals from an Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (7-1-98)

03. Withdrawals from an Idaho College Savings Program. ()

a. As provided in Section 63-3022(o), Idaho Code, an account owner shall add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (3-20-04)

b. As provided in Section 63-3022(p), Idaho Code, an account owner shall add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007 to a qualified tuition program operated by a state other than Idaho. ()

04. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, an eligible educator as defined in Section 62, Internal Revenue Code, shall add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. (3-20-04)

05. State and Local Sales Tax. As provided in Section 63-3022(j), Idaho Code, add the amount of state and local general sales taxes deducted as an itemized deduction. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (RULE 121).

Section 63-3022, Idaho Code. (3-20-97)

01. Income Not Taxable by Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Certain income earned by American Indians. See Rule 033 of these rules. (5-3-03)

b. Retirement payments received pursuant to the old Teachers' Retirement System. Prior to its repeal on July 1, 1967, the old Teachers' Retirement System was codified at Title 33, Chapter 13, Idaho Code. Teachers who were employed by the state of Idaho and who retired on or after January 1, 1966, generally do not qualify for this exemption. Teachers who were not state employees and who retired on or after January 1, 1968, do not qualify. Teachers receiving benefits pursuant to the Public Employees' Retirement System, Title 59, Chapter 13, Idaho Code, do not qualify for the exemption. No exemption is provided for amounts received from other states, school districts outside Idaho, or any other source if the proceeds do not relate to teaching performed in Idaho. (3-20-97)

02. Military Compensation for Service Performed Outside Idaho. As provided in Section 63-3022(h), Idaho Code, certain members of the United States Armed Forces may deduct from taxable income their military service pay received for military service performed outside Idaho. See Rule 032 of these rules. (3-30-01)

03. Standard or Itemized Deduction. As provided in Section 63-3022(j), Idaho Code, deduct either the standard deduction amount as defined in Section 63, Internal Revenue Code, or the itemized deductions allowed by the Internal Revenue Code. If itemized deductions are limited pursuant to the Internal Revenue Code, they are also limited for Idaho income tax purposes. (3-30-01)

a. If state and local income or general sales taxes are included in itemized deductions for federal purposes pursuant to Section 164, Internal Revenue Code, they shall be added to taxable income. If itemized deductions are limited pursuant to Section 68, Internal Revenue Code, the amount of state and local income or general sales taxes added back shall be computed by dividing the amount of itemized deductions that are allowed to the taxpayer after all federal limitations by total itemized deductions before the Section 68 limitation. For taxable years beginning in or after 2007, this ~~percent~~ proration shall be calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number (\$10,000/\$15,000 = .66-666% = .6667 = 66.67%). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped (\$10,000/\$30,000 = .33-333% = .3333 = 33.33%). The percentage may not exceed one hundred percent (100%) nor be less than zero (0). ~~This percent~~ The result is then applied to state and local income or general sales taxes to determine the Idaho state and local income and general sales tax addback. See Rule 105 of these rules. (~~3-30-07~~)()

b. If an itemized deduction allowable for federal income tax purposes is reduced for the mortgage interest credit or the foreign tax credit, the amount that would have been allowed if the federal credit had not been claimed is allowed as an itemized deduction. (7-1-99)

c. For taxable year 1999 the standard deduction allowed on a married filing joint return shall be increased by one hundred fifty dollars (\$150). (3-30-01)

d. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return shall be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. (3-30-01)

04. Social Security and Railroad Retirement Benefits. As provided in Section 63-3022(l), Idaho Code, subtract from taxable income the amount of social security and certain railroad retirement benefits included in

gross income pursuant to Section 86, Internal Revenue Code. (3-30-01)

a. The term social security benefits includes United States social security benefits and Canadian social security pensions received by a United States resident that are treated as United States social security benefits for United States income tax purposes. (7-1-99)

b. The term certain railroad retirement benefits means the following amounts paid by the Railroad Retirement Board: (4-6-05)

i. Annuities, supplemental annuities, and disability annuities, including the Tier I social security equivalent benefits, and the Tier II pension amounts; (4-6-05)

ii. Railroad unemployment; and (4-6-05)

iii. Sickness benefits. (4-6-05)

05. Self-Employed Worker's Compensation Insurance Premiums. As provided in Section 63-3022(m), Idaho Code, self-employed individuals may subtract from taxable income the premiums paid to secure worker's compensation insurance for coverage in Idaho if the premiums have not been previously deducted in computing taxable income. The term worker's compensation insurance means "workmen's compensation" as defined in Section 41-506(d), Idaho Code. Premiums paid to secure worker's compensation insurance coverage are those payments made in compliance with Section 72-301, Idaho Code. (3-30-01)

06. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. (3-20-97)

07. Insulation of an Idaho Residence. As provided in Section 63-3022B, Idaho Code, and Rule 140 of these rules, a deduction from taxable income is allowed for qualified expenses related to the insulation of an Idaho residence. (3-20-97)

08. Alternative Energy Devices. As provided in Section 63-3022C, Idaho Code, and Rule 150 of these rules, a deduction from taxable income is allowed for qualified expenses related to the acquisition of an alternative energy device used in an Idaho residence. (3-20-97)

09. Household and Dependent Care Services. As provided in Section 63-3022D, Idaho Code, and Rule 160 of these rules, a deduction from taxable income is allowed for certain employment related expenses incurred for the care of qualifying individuals. (3-20-97)

10. Household Deduction for Elderly or Developmentally Disabled Dependents. As provided in Section 63-3022E, Idaho Code, and Rule 165 of these rules, a deduction from taxable income is allowed for maintaining a household where an elderly or developmentally disabled family member resides. (3-20-97)

11. Reparations to Displaced Japanese Americans. As provided in Section 63-3022G, Idaho Code, certain individuals are allowed a deduction for amounts included in taxable income relating to reparation payments from the United States Civil Liberties Public Education Fund. (3-20-97)

12. Capital Gains. As provided in Section 63-3022H, Idaho Code, and Rules 170 through 173 of these rules, a deduction from taxable income may be allowed for net capital gains recognized from the sale of qualified property. (3-20-97)

13. Adoption Expenses. As provided in Section 63-3022I, Idaho Code, and Rule 185 of these rules, a deduction from taxable income is allowed for certain expenses incurred when adopting a child. (3-20-97)

14. Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, and Rule 190 of these rules, a deduction from taxable income is allowed for qualifying contributions to and interest earned on an Idaho medical savings account. (4-5-00)

15. **Idaho College Savings Program.** As provided in Section 63-3022(n), Idaho Code, a deduction from taxable income is allowed for qualifying contributions to a college savings program. (3-15-02)

16. **Health Insurance Costs.** A deduction from taxable income is allowed for the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care, as defined in Section 63-3022P, Idaho Code, for the taxpayer, the spouse or dependents of the taxpayer not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes. See Rule 193 of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

123. -- 1274. (RESERVED).

125. ADJUSTMENTS TO TAXABLE INCOME -- BONUS DEPRECIATION (RULE 125).
Section 63-3022O, Idaho Code. ()

01. In General. For taxable years beginning on and after January 1, 2001, Section 63-3022O, Idaho Code, requires that when computing Idaho taxable income, the amount of the adjusted basis of depreciable property, depreciation, and gains and losses from the sale, exchange, or other disposition of depreciable property shall be computed without regard to bonus depreciation allowed by Section 168(k), Internal Revenue Code. In order to meet this requirement, a taxpayer shall be consistent in making the Idaho adjustments required for all the taxable years in which federal bonus depreciation is claimed. ()

02. Depreciation. ()

a. If a taxpayer makes the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, in the subsequent taxable years the taxpayer shall be entitled to the Idaho subtractions for the additional depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation claimed for federal income tax purposes. ()

b. If a taxpayer fails to make the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, the taxpayer shall not be entitled to claim the Idaho subtractions for additional depreciation in subsequent taxable years. In such instances, claiming an Idaho subtraction for additional depreciation when the first year Idaho addition was not claimed constitutes computing depreciation with regard to Section 168(k), Internal Revenue Code, which is specifically prohibited in Section 63-3022O(1), Idaho Code. For example, the Idaho addition is required for a taxable year when the bonus depreciation is claimed even though the taxpayer may be limited in claiming a passive loss from a pass-through entity in which the bonus depreciation arose. If the bonus depreciation is not added back in that taxable year, the Idaho subtractions are not allowed in the subsequent taxable years. ()

c. The Idaho adjustments shall be required in all taxable years in which the taxpayer has an Idaho filing requirement or is a member of a combined group of corporations in which at least one member has an Idaho filing requirement. If the taxpayer is not required to file an Idaho income tax return for one (1) or more years in which depreciation may be claimed, the taxpayer shall claim the Idaho adjustment in the taxable years in which an Idaho return is filed if all such taxable years are treated consistently. ()

d. Example. A corporation transacted business in California and Oregon during taxable year 2003. In 2004, the taxpayer began transacting business in Idaho and was required to file an Idaho corporation income tax return for that year. On the federal return filed for 2003, the taxpayer claimed bonus depreciation for assets placed in service that year. Because the taxpayer was not required to file an Idaho corporation income tax return for 2003, there was no Idaho bonus depreciation addition required of the taxpayer. In 2004, the second year of depreciation for the assets placed in service in 2003, the taxpayer was required for Idaho income tax purposes to compute depreciation on the assets as if bonus depreciation had not been claimed. The difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes for 2004 would be allowed to the taxpayer as an Idaho subtraction since the taxpayer was required to file an Idaho corporation income tax return for that year. Assuming the

taxpayer files an Idaho corporation income tax return for the remaining years when depreciation on the assets is allowed, the taxpayer will be allowed the Idaho subtraction in those years for the difference in the Idaho and federal depreciation amounts. If the corporation transacted business in Idaho during 2003 only, the return filed for that year should reflect the Idaho addition for the difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes, even though the subtractions will not apply in subsequent years. ()

126. -- 127. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

255. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PRORATION OF EXEMPTIONS AND DEDUCTIONS (RULE 255).

Section 63-3026A(4), Idaho Code.

(3-30-07)

01. In General. The exemptions and deductions allowable for federal purposes, except for the deduction of state income taxes, are allowed in part in computing Idaho taxable income. To determine the portion of exemptions and deductions allowable for part-year and nonresident individuals, the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(j), Idaho Code, shall be multiplied by the calculated proration. (3-20-97)()

02. Proration-Percentage. ~~To determine the portion of exemptions and deductions allowable for part-year and nonresident individuals, multiply the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(j), Idaho Code, by the proration percentage. The proration percentage is calculated by dividing Idaho adjusted income by total adjusted income.~~ For taxable years beginning in or after 2007, the percentage shall be the proration is calculated by dividing Idaho adjusted income by total adjusted income. Calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number (\$10,000 / \$15,000 = .66-666% = .6667 = 66.67%). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped (\$10,000 / \$30,000 = .33-333% = .3333 = 33.33%). The percentage may not exceed one hundred percent (100%), nor be less than zero (0). (3-30-07)()

a. Idaho adjusted income means the Idaho taxable income of the taxpayer as computed pursuant to Title 63, Chapter 30, Idaho Code, except for any adjustments for the standard deduction or itemized deductions and personal exemptions. Total adjusted income means the Idaho taxable income of the taxpayer computed as if he were a resident of Idaho for the entire taxable year, except no adjustments are made for the standard deduction, itemized deductions, personal exemptions, the deduction for active military service pay as provided in Section 63-3022(h), Idaho Code, and any deduction for income earned within a federally recognized Indian reservation. (3-30-01)

b. Generally, both Idaho adjusted income and total adjusted income are positive amounts. If Idaho adjusted income is less than or equal to the total adjusted income, the percentage shall be between zero (0) and one hundred percent (100%). If Idaho adjusted income is greater than the total adjusted income, the percentage shall be one hundred percent (100%). If Idaho adjusted income is a positive amount and total adjusted income is a negative amount, the percentage shall be one hundred percent (100%). If Idaho adjusted income is a negative amount and total adjusted income is a positive amount, the percentage shall be zero (0). (3-20-97)

03. Standard Deduction for Married Filing Joint Returns. The proration percentage shall be applied after making the following calculations: (3-30-01)

a. For taxable year 1999 the standard deduction allowed on a married filing joint return shall be increased by one hundred fifty dollars (\$150). (3-30-01)

b. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return shall be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes.

(3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

275. **INVESTMENT INCOME FROM ~~INTANGIBLE PROPERTY OF~~ QUALIFIED INVESTMENT PARTNERSHIPS (RULE 275).**

Section 63-3026A(3)(c), Idaho Code. (4-11-06)

01. **In General.** (4-11-06)

a. For taxable years beginning on or after January 1, 2007, ~~an Idaho nonresident individual will not be taxed on investment income from securities received from a qualifying entity described in Subsection 275.02 of this rule shall be deemed to be derived from or related to a source in the partner's or member's state of domicile. This income shall be deemed to be derived from or related to a source in Idaho if the partner or member is domiciled in Idaho or is residing in Idaho when the income is received~~ a **qualified investment partnership**. See Rule 250 of these rules for information on when pass-through income from a partnership is deemed to have been received.

~~(4-11-06)(____)~~

b. ~~This rule~~ **The exemption from tax on investment income from a qualified investment partnership shall not apply to gains or losses derived from the sale of a nonresident individual's interest in a qualified investment partnership. The source of these gains and losses is to be governed by Section 63-3026A(3)(a)(vii), Idaho Code, and as discussed in Rule 266 of these rules. The source of investment income that is not from a qualifying entity qualified investment partnership shall be determined as provided in Rule 263 of these rules.**

~~(4-11-06)(____)~~

02. **Qualifying Entity. Qualified Investment Partnership.** An entity shall be a qualified investment partnership only if it meets both of the following criteria: ~~(4-11-06)(____)~~

a. ~~A qualifying~~ **The entity includes only an entity that is taxed is classified as a partnership for federal income tax purposes, but is not a publicly traded partnership taxed as a corporation under Section 63-3006, Idaho Code.** ~~(4-11-06)(____)~~

b. ~~The business activity of a qualifying entity must be limited to investment in securities and activities incident thereto. If the entity is involved in any other business activity not related to the securities investment activities, the entity is not a qualifying entity for purposes of Section 63-3026(A)(3)(c) and the source of income from such entity shall be determined pursuant to Rule 263 of these rules. Activities incident thereto shall include only those activities that would be usual and customary in the securities investment business and that contribute to the earning of the investment income. The gross income from investments of the entity must be derived at least ninety percent (90%) from investments that when held by a nonresident individual directly, would not produce income subject to the Idaho income tax. See Rules 263 and 266 of these rules.~~ ~~(4-11-06)(____)~~

~~03. **Investment in Securities.** For purposes of this rule: (4-11-06)~~

~~a. Investment in securities shall include any stock, bond, commodity, future, derivative, foreign currency, or similar financial product. (4-11-06)~~

~~b. Investment in securities and activities incident thereto shall not include the purchase or sale of real or tangible personal property, or any installment note received from the sale of real or tangible personal property. (4-11-06)~~

~~c. Activities incident thereto shall include those activities that are usual and customary to the business of investing in securities including: maintaining accounts for individual investors, soliciting applications from new investors, record keeping and storage, maintaining bank accounts for liquid assets and disbursing profits to investors, research and evaluation of investment opportunities and results, and the maintenance of an office in Idaho for such activities. (4-11-06)~~

~~d. Investment in securities and activities incident thereto shall include only investments that are passive investments. For purposes of this rule, investments are not passive investments where one (1) or more investors in the entity taxed as a partnership exercises direct or indirect control over the operation of a business entity from which the income received by the entity taxed as a partnership is derived. (4-11-06)~~

(BREAK IN CONTINUITY OF SECTIONS)

281. -- 2894. (RESERVED).

285. S CORPORATIONS (RULE 285).

Sections 63-3025 and 63-3025A, Idaho Code.

()

01. Tax on S Corporations. An S corporation that is transacting business in Idaho or authorized to transact business in Idaho is subject to the tax imposed by Section 63-3025, Idaho Code, if not paying the tax imposed by Section 63-3025A, Idaho Code. The tax imposed by Section 63-3025 or 63-3025A, Idaho Code, shall be computed on the total of the net recognized built-in gains and the excess net passive income of the S corporation attributable to Idaho for the taxable year.

()

a. Net recognized built-in gains shall be determined pursuant to Section 1374, Internal Revenue Code, including any applicable limitations.

()

b. Excess net passive income shall be determined pursuant to Section 1375, Internal Revenue Code, including any applicable limitations.

()

c. If the tax computed in Subsection 285.01 of this rule is less than the minimum tax, the S corporation shall pay the minimum tax.

()

02. Minimum Tax. The minimum tax is required of every S corporation that is required to file a return. A name-holder or inactive S corporation that is authorized to do business in Idaho shall pay the minimum tax of twenty dollars (\$20) even though the S corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. See Subsection 285.03 of this rule.

()

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. An S corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income.

()

04. Application of Credits. If an S corporation was previously a C corporation with an Idaho income tax credit carryover at the time of the S corporation election, the S corporation may use any available credit carryover against the tax on the excess net passive income or net recognized built-in gains if the carryover period related to the Idaho income tax credit has not expired before the taxable year in which the tax must be reported.

()

05. Tax Resulting From the Election Under Section 63-3022L, Idaho Code. An S corporation shall be subject to tax at the corporate rate on the income required to be reported for qualifying shareholders who make the election under Section 63-3022L, Idaho Code. This tax shall be in addition to any tax the S corporation owes under Section 63-3025 or 63-3025A, Idaho Code. See Rules 290 and 291 of these rules for information on the election and computing taxable income under Section 63-3022L, Idaho Code.

()

06. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) shall be treated for Idaho income tax purposes the same as treated for federal income tax purposes. The QSSS will not be treated as a separate corporation, but all the assets, liabilities, and items of income, deduction, and credit of a QSSS shall be treated as assets, liabilities and such items of the S corporation. Since the QSSS is not treated as a separate taxpayer, it is not subject to the minimum tax.

()

286. S CORPORATIONS OPERATING WITHIN AND WITHOUT IDAHO (RULE 286).

Sections 63-3027 and 63-3030(4), Idaho Code.

()

01. In General. An S corporation that operates within and without Idaho shall apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of S corporation income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations.

()

02. Exceptions to Apportionment Formula. If the method described in Subsection 286.01 of this rule does not fairly represent the extent of the business activity in Idaho, the S corporation may file a request to use or the Tax Commission may require, an alternative method, including the following:

()

a. Separate accounting as provided in Rule 585 of these rules;

()

b. The exclusion of a factor pursuant to Rule 590 of these rules;

()

c. An additional factor or substitute factor pursuant to Rule 595 of these rules; or

()

d. The employment of any other method that would fairly represent the extent of business activity in Idaho.

()

03. Information Provided to Shareholders. An S corporation shall provide to each shareholder information necessary for the shareholder to compute his Idaho income tax. Such information shall include:

()

a. The apportioned share of each pass-through item of income and deduction;

()

b. The apportioned share of each Idaho addition and subtraction;

()

c. Idaho tax credits and tax credit recapture;

()

d. Income allocated to Idaho; and

()

e. The distributive share of S corporation gross income multiplied by the Idaho apportionment factor.

()

04. Protection Under Public Law 86-272. An S corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax.

()

05. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) shall include its apportionment attributes with its parent's apportionment attributes to compute one Idaho apportionment factor for the S corporation.

()

287. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

582. SPECIAL RULES -- FINANCIAL INSTITUTIONS (RULE 582).

Section 63-3027(s), Idaho Code.

(7-1-98)

01. Adoption of MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This rule incorporates by reference the MTC "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" as adopted in Subsection 006.02 of these

rules. A copy of this regulation may be obtained from the main office of the Idaho State Tax Commission. (5-3-03)

02. Definition of Financial Institution. For purposes of Section 2(h) of the “Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions” the term financial institution means a person that predominantly deals in money or moneyed capital in substantial competition with the business of national banks. For purposes of this rule, the following definitions apply: (7-1-99)

a. Predominantly means over fifty percent (50%) of a taxpayer’s gross income is attributable to dealings in money or moneyed capital in substantial competition with the business of national banks. Generally, the determination of predominance will be made based upon the division of gross income for the year in issue. However, the classification of a taxpayer as a financial institution or as a nonfinancial institution will not be changed based upon an occasional year in which its gross income does or does not exceed the fifty percent (50%) level. For the classification of a taxpayer as a financial or nonfinancial institution to be changed, there must be a shift in the predominant character of the gross income for two (2) consecutive years and the average of the corporation’s gross income in the current and the immediately preceding two (2) years must fail or satisfy the predominance test. If substantial amounts of gross income arise from an incidental or occasional sale of an asset of the taxpayer, such gross income shall be excluded for purposes of this subsection. For example, gross income from the sale of a headquarters building shall be excluded. (7-1-98)

b. Deals in means conducting transactions in the course of a trade or business on its own account as opposed to brokering the capital of others. (7-1-98)

c. Money or moneyed capital includes, but is not limited to, coin, cash, currency, mortgages, deeds of trust, conditional sales contracts, loans, commercial paper, installment notes, credit cards, and accounts receivable. (7-1-98)

d. In substantial competition means that a corporation and national banks both engage in seeking and securing in the same locality capital investment of the same class which are substantial in amount, even though the terms and conditions of the business transactions of the same class are not identical. It does not mean there must be competition as to all phases of the business of national banks, or competition as to all types of loans or all possible borrowers. The activities of a corporation need not be identical to those performed by a national bank in order to constitute substantial competition; It is sufficient if there is competition with some, but not all, bases of the business of national banks, or capital is invested in particular operations or investments like those of national banks. (7-1-98)

03. Entities Presumed to Be Financial Institutions. The following entities are presumed to be financial institutions as defined in Subsection 582.02: (7-1-98)

a. Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended; (7-1-98)

b. A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, Title 12, Sections 21 et seq., United States Code; (7-1-98)

c. A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, Title 12, Section 1813(b)(1), United States Code; (7-1-98)

d. Any bank or thrift institution incorporated or organized under the laws of any state; (7-1-98)

e. Any corporation organized under the provisions of Title 12, Sections 611 to 631, United States Code; (7-1-98)

f. Any agency or branch of a foreign depository as defined in Title 12, Section 3101, United States Code; (7-1-98)

g. Any corporation whose voting stock is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in Subsections 582.03.a. through 582.03.f. other than an insurance

company exempted from tax by Section 41-405, Idaho Code; and (7-1-98)

h. A corporation or other business entity that, in the current tax year and immediately preceding two (2) tax years, derived more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a finance lease shall mean any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. (7-1-98)

04. Exclusion from Rule. The Tax Commission is authorized to exclude any person from the application of Subsection 582.01 upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in Subsections 582.03.a. through 582.03.f. and 582.03.h. (7-1-98)

~~**05. Financial Institutions Described in Section 63-3023(b), Idaho Code.** (7-1-99)~~

~~**a.** *Transacting business.* If an entity described in Section 63-3023(b), Idaho Code, does not maintain an office within Idaho and carries on only the activities listed in Section 63-3023(b)(1) through (4), Idaho Code, it is not deemed to be transacting business within Idaho. The fact that the entity is also a financial institution as defined in this rule will not change the result of Section 63-3023(b), Idaho Code. (7-1-99)~~

~~**b.** *Calculation of apportionment factor attributes.* A financial institution described in Section 63-3023(b), Idaho Code, that is a member of a unitary group of corporations with at least one member subject to Idaho income tax, shall include its property, payroll, and sales amounts in the denominators of the unitary group's factors. The calculation of the amount included in the denominators shall be computed as provided in the MTC Recommended Formula for Financial Institutions. Because such a financial institution is not deemed to be transacting business within Idaho, the financial institution will have zero (0) for its Idaho numerators of the apportionment factors and will not have an Idaho corporate income tax liability. A financial institution that is transacting business within Idaho shall compute its Idaho numerator and denominator amounts as provided in the MTC Recommended Formula for Financial Institutions. (7-1-99)~~

065. Act Defined. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references to [Act] in the MTC Recommended Formula for Financial Institutions refers to the Idaho Income Tax Act. (7-1-99)

~~**076. The Apportionment Percentage.** References in Section 1(b) of the MTC Recommended Formula for Financial Institutions to the computation of the apportionment percentage being determined by adding the taxpayer's receipts factor, property factor, and payroll factor together and dividing the sum by three (3) shall be replaced with adding two (2) times the taxpayer's sales factor, the taxpayer's property factor, and the taxpayer's payroll factor together and dividing the sum by four (4) as required by Section 63-3027(i), Idaho Code. (7-1-99)~~

(BREAK IN CONTINUITY OF SECTIONS)

641. WATER'S EDGE -- ELEMENTS OF A COMBINED REPORT (RULE 641).
Section 63-3027B, Idaho Code. (3-20-97)

01. Income. Income for the water's edge combined group is computed on the same basis as taxable income subject to modifications contained in Sections 63-3022 and 63-3027, Idaho Code, and related rules. Intercompany transactions between members of the water's edge combined group shall be eliminated to the extent necessary to properly reflect combined income. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation shall be included in the computation of the income of the water's edge combined group. (3-20-97)(____)

02. Factors. The rules for inclusion, value, and attribution of apportionment factors by location for the water's edge combined group shall be determined pursuant to Section 63-3027, Idaho Code, and related rules. ~~When computing the apportionment factors of the water's edge combined group,~~ Intercompany transactions between members of the group shall be eliminated to the extent necessary to properly compute the apportionment factors of the water's edge combined group. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation shall be included, if appropriate, when determining apportionment factors. Dividends, to the extent included in apportionable income, shall be included in the sales factor computation.

(3-20-07)(____)

(BREAK IN CONTINUITY OF SECTIONS)

700. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY -- IN GENERAL (RULE 700).

Section 63-3029, Idaho Code.

(3-30-07)

01. Taxpayers Entitled to the Credit. The credit for taxes paid to another state shall be allowed only to qualifying individuals who are domiciled in Idaho at the time the income was earned in another state as determined under Section 63-3026A, Idaho Code, and related rules. An individual who is not domiciled in Idaho but who qualifies as a resident in accordance with Section 63-3013(b), Idaho Code, does not qualify for this credit.

(3-30-07)(____)

02. Taxes Eligible for the Credit. The credit for taxes paid to another state is allowed for the amount of income tax imposed by another state on a qualifying individual, an S corporation, partnership, limited liability company, or trust of which the individual is a shareholder, partner, member or beneficiary. For taxes paid by a pass-through entity, the credit is allowed to the extent the tax is attributable to the individual as a result of his share of the entity's taxable income in another state.

(3-30-07)

03. Taxes Not Eligible for the Credit. Any tax or portion thereof imposed on capital stock, retained earnings, stock values, or a basis other than income is not eligible for the credit.

(7-1-98)

04. Credit Calculated on a State-by-State Basis. The credit and credit limitations shall be calculated on a state-by-state basis. The taxpayer may not aggregate the income taxed by other states or the taxes paid to the other states for purposes of calculating the credit and its limitations.

(7-1-98)

05. Income Tax Payable to Another State. The income tax payable to another state shall be the tax paid after the application of all credits. The tax paid to the other state must be for the same taxable year that the credit is claimed. Tax paid to cities or counties does not qualify for the credit.

(3-30-07)

06. Limitations. The credit for taxes paid to another state shall be limited as follows: (3-30-07)

a. The credit allowed may not exceed the amount of tax actually paid to the other state. This includes the amount paid by a qualifying individual and the amount paid for such individual by an S corporation, partnership, limited liability company, or trust. (3-30-07)

b. If an individual receives a refund due to a refundable credit for all or part of the income tax paid by the pass-through entity, the amount of the refund attributable to the refundable credit shall reduce the income tax paid by the pass-through entity. For example, an individual domiciled in Idaho is required to pay tax in another state due to his interest in an S corporation operating in that state. In addition to the individual's tax paid to the other state, the S corporation is required to pay an income tax to that state, of which four hundred dollars (\$400) is attributable to the Idaho resident. The individual's income tax to the other state totals three hundred dollars (\$300), but he is entitled to a three-hundred sixty dollar (\$360) refundable corporate tax credit due to his share of the tax paid by the pass-through entity, resulting in a net refund of sixty dollars (\$60). In computing the tax actually paid to the other state, the tax paid by the pass-through entity must be reduced by the net refund received by the individual (\$400 - \$60 = \$340). The credit for tax paid to the other state is limited to three hundred forty dollars (\$340). (3-30-07)

c. The credit may not exceed the proportion of the tax otherwise due to Idaho that the amount of the adjusted gross income of the individual derived from sources in the other state as modified by Chapter 30, Title 63, Idaho Code, bears to total adjusted gross income for the individual so modified. For example, if the adjusted gross income derived in another state is twelve thousand dollars (\$12,000) after taking into account the Idaho additions and subtractions required by the Idaho Income Tax Act, and the individual's total adjusted gross income similarly modified equals fifty thousand dollars (\$50,000), the credit cannot exceed twenty-four percent (24%) of the tax paid to Idaho ($\$12,000/\$50,000 = 24\% \times$ tax paid to Idaho). (3-30-07)

~~07. Rounding to the Nearest Whole Percent.~~ For taxable years beginning in or after 2007, the percentage proration calculated under Section 63-3029, Idaho Code, shall be calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($\$10,000/\$15,000 = .66-666\% = .6667 = 66.67\%$). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($\$10,000/\$30,000 = .33-333\% = .3333 = 33.33\%$). ~~This~~ The percentage may not exceed one hundred percent (100%) nor be less than zero (0). (3-30-07)(____)

(BREAK IN CONTINUITY OF SECTIONS)

714. IDAHO INVESTMENT TAX CREDIT -- CREDIT EARNED ON PROPERTY USED BOTH IN AND OUTSIDE IDAHO IN TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 1995 (RULE 714).

Section 63-3029B, Idaho Code. (3-20-97)

01. In General. Property must be used at least part of the time in Idaho to qualify for the investment tax credit, provided it otherwise qualifies for the credit. It must also be used in Idaho in each succeeding year to which a carryover may be taken. (3-20-97)

02. Election of Methods. The taxpayer must elect to compute the investment tax credit on property used both in and outside Idaho using either the percentage-of-use method or the amount of that property correctly included in the Idaho property factor numerator. The credit for all property used both in and outside Idaho must be computed using the method elected. (3-20-97)(____)

a. If the percentage-of-use method is elected, the basis of each qualified asset is multiplied by the percentage of time, miles, or other measure that accurately reflects the use of that asset in Idaho. The use of aircraft within and without Idaho during the taxable year shall be determined by the ratio of departures from locations in Idaho to total departures. See Subsection 713.04.a. of these rules for an example of the percentage-of-use method. (7-1-98)

b. If the property factor numerator option is elected, the qualified investment is the basis of the asset correctly included in the numerator of the Idaho property factor for the year the credit is earned. ~~For example, if a taxpayer is in the freight transportation business and thirty percent (30%) of his trucks' fleet miles were logged in Idaho during the year, thirty percent (30%) of the cost of a truck acquired that year would be included in the Idaho property factor numerator. If one of the trucks acquired that year traveled in Idaho, and cost one hundred thousand dollars (\$100,000), the amount included in the Idaho property factor numerator would be thirty thousand dollars (\$30,000). The qualified investment in this truck would also be thirty thousand dollars (\$30,000) resulting in a credit of nine hundred dollars (\$900).~~ (7-1-98)(____)

i. The amounts of investment tax credit computed under the percentage-of-use method and the property factor numerator option are generally the same. Differences may result when a taxpayer uses certain MTC special industry regulations that allow the taxpayer to vary from using the percentage-of-use method for determining the Idaho numerator for each item of mobile property, and instead allow another method, such as the ratio of mobile property miles in the state compared to total mobile property miles or the ratio of departures of aircraft from locations in the state compared to total departures. These special industry regulations include the regulations for airlines, railroads, and trucking companies. See Rule 580 of these rules for a list of the special industries. (____)

ii. “Correctly included in the numerator of the Idaho property factor” means that the amount included in the Idaho property factor numerator was correctly computed using Section 63-3027, Idaho Code, and related rules including any MTC special industry regulations that apply to the taxpayer. If the amount included in the Idaho property factor numerator exceeds the amount that should have been included using Section 63-3027, Idaho Code and related rules, the investment tax credit shall be allowed only on the amount that reflects the correct calculation for purposes of computing the Idaho property factor numerator. For example, a taxpayer includes one hundred percent (100%) of the basis of an asset in the Idaho property factor numerator, but the amount correctly computed under Section 63-3027, Idaho Code, should have been fifty percent (50%) of the basis of the asset. The investment tax credit shall be allowed only on the fifty percent (50%) of the basis of the asset. ()

(BREAK IN CONTINUITY OF SECTIONS)

746. CREDIT FOR QUALIFYING NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (RULE 746).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning on and after January 1, 2004. (4-6-05)

01. In General. For taxable years beginning on and after January 1, 2004, an employer may be able to earn either a one thousand dollar (\$1,000) credit or a five hundred dollar (\$500) credit for a qualifying new employee. However, the employer cannot earn both credits for the same employee. The applicable credit rate depends on whether the new employee meets certain wage and benefit criteria. If the new employee does not meet the criteria for either credit rate, the employer may not claim the credit for such new employee. (4-6-05)

02. Qualifying for the One Thousand Dollar (\$1,000) Credit. (4-6-05)

a. The new employee must meet both of the following criteria to qualify for the one thousand dollar (\$1,000) credit: (4-6-05)

i. He must have received annual earnings at an average rate of fifteen dollars and fifty cents (\$15.50) or more per hour worked; and (4-6-05)

ii. He must have been eligible to receive employer provided coverage under an accident or health plan described in Section 105, Internal Revenue Code. (4-6-05)

b. The new employee does not have to be employed in a revenue-producing enterprise to qualify for the one thousand dollar (\$1,000) credit. (4-6-05)

03. Qualifying for the Five Hundred Dollar (\$500) Credit. If a new employee does not meet the criteria for the one thousand dollar (\$1,000) credit, the employer may be eligible to claim the five hundred dollar (\$500) credit. To qualify for the five hundred dollar (\$500) credit, the new employee must have been employed in a revenue-producing enterprise as defined in Section 63-3029E, Idaho Code. (4-6-05)

04. Calculating Number of Employees. (3-30-01)

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: (3-20-04)

i. The employee must have been subject to Idaho income tax withholding. (3-20-04)

ii. The employee must have been employed by the employer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. (4-6-05)

iii. The employee must have been performing such duties for the employer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify. (4-6-05)

iv. The employee must have been covered for Idaho unemployment insurance purposes. (3-20-04)

b. Idaho Department of Commerce and Labor Reports. The employer should begin with his Idaho Department of Commerce and Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. (4-6-05)

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. (3-30-01)

05. Calculating the Number of New Employees. (3-30-01)

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: (3-30-01)

i. The number of employees for the prior taxable year; or (3-30-01)

ii. The average of the number of employees for the three (3) prior taxable years. (3-30-01)

b. The requirements as to who qualifies for the calculation of number of employees in Paragraph 746.02.a., of this rule shall apply in computing the number of employees in Subparagraphs 746.05.a.i., and 746.05.a.ii., of this rule. Calculations used in computing the number of new employees for the prior taxable year and average for the three (3) prior taxable years shall be made consistent with the computations for the current taxable year. ~~If the employer treats the entire business as a revenue-producing enterprise under Paragraph 745.04.a., of these rules, the calculations in Subparagraphs 746.05.a.i., and 746.05.a.ii., of this rule shall be made on a consistent basis. The number of employees for the prior taxable year and the average for the three (3) prior taxable years shall be made presuming the entire business was a revenue-producing enterprise for those years.~~ (4-6-05)(____)

c. The number of new employees shall be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (4-6-05)

d. The employer shall determine the number of new employees who qualify for the one thousand dollar (\$1,000) credit and the number who qualify for the five hundred dollar (\$500) credit. If the new employees do not meet the criteria set forth in Sections 63-3029E and 63-3029F, Idaho Code, and this rule, the employer shall not earn the credit. For example, if a new employee has an average wage rate of ten dollars (\$10) and the employer's business does not qualify as a revenue-producing enterprise, the new employee does not qualify for either the one thousand dollar (\$1,000) credit or the five hundred dollar (\$500) credit. (4-6-05)

06. Computing the Credit Earned. The credit earned is the lesser of the amounts determined in Paragraphs 746.06.a., and 746.06.b., of this rule. (4-6-05)

a. The number of new employees who qualify for the five hundred dollars (\$500) credit multiplied by five hundred dollars (\$500), plus the number of new employees who qualify for the one thousand dollar (\$1,000) credit multiplied by one thousand dollars (\$1,000); or (4-6-05)

b. The net income of the trade or business, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%). (4-6-05)

07. Limitations. In the year the credit for qualifying new employees is earned or claimed: (3-20-04)

a. This credit and all other credits may not exceed fifty percent (50%) of the taxpayer's income tax for that year after deducting the credit for taxes paid to other states. The credit for taxes paid to other states is not subject to this limitation. (4-6-05)

- b. See Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits. (4-6-05)

08. Carryover. To claim the carryover, the employer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the employer is not required to recapture the credit claimed in previous taxable years. However, the employer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover. (4-6-05)

09. Pass-Through Entities. See Rule 785 of these rules for pass-through entities and the calculation of credits. (3-15-02)

10. Unitary Taxpayers. (3-30-01)

a. A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. (3-30-01)

b. Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

~~764.—769.~~ (RESERVED).

765. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT -- IN GENERAL (RULE 765).
Section 63-3029M, Idaho Code. ()

01. Credit Allowed. The biofuel infrastructure investment tax credit allowed by Section 63-3029M, Idaho Code, may be earned during taxable years beginning on and after January 1, 2007, and before December 31, 2011. It applies to qualified investment placed in service after July 1, 2007. ()

a. Qualified investment placed in service on or before July 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on May 15, 2007, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service after July 1, 2007. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. ()

b. Qualified investment placed in service after July 1, 2007, during a taxable year beginning before January 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on August 1, 2007, during a taxable year that begins on October 1, 2006, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service in a taxable year beginning on or after January 1, 2007, and before December 31, 2011. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. ()

02. Qualified Investment. For purposes of the biofuel infrastructure investment tax credit, qualified investment includes the following: ()

a. New fueling infrastructure dedicated to the purpose of selling or offering for sale biofuel. New fueling infrastructure shall mean investment in fueling infrastructure that: ()

i. Is constructed or erected by the taxpayer, or ()

ii. Is acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition shall not qualify as new infrastructure. ()

b. Costs to upgrade existing fueling infrastructure that was previously incompatible to enable it to offer biofuel. Such costs include expenses related to the cleaning of existing fuel storage tanks, trucks, or other equipment for the purpose of providing biofuels. ()

c. Fueling infrastructure means necessary tanks, piping, pumps, pump stands, hoses, monitors, blending equipment, meters, rack injection systems, or any other equipment and the costs to install the equipment that is necessary for a fuel distributor or a retail fuel outlet to offer biofuel for sale. ()

03. Limitations. Regardless of whether the biofuel infrastructure investment tax credit available in a taxable year results from a carryover earned in prior years, credit earned in the current year, or both, the biofuel infrastructure investment tax credit allowable in any taxable year shall be limited as follows: ()

a. Tax liability. The biofuel infrastructure investment tax credit claimed during a taxable year may not exceed the lesser of: ()

i. Fifty percent (50%) of the tax; or ()

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the biofuel infrastructure investment tax credit. See Rule 799 of these rules for the priority order for nonrefundable credits. ()

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the biofuel infrastructure investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. ()

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. ()

04. Carryovers. The carryover period for the biofuel infrastructure investment tax credit is five (5) years. ()

05. Taxpayers Entitled to the Credit. The biofuel infrastructure investment tax credit is allowed to fuel distributors and retail fuel dealers. Rule 711 of these rules shall apply to the biofuel infrastructure investment tax credit, except that limitations referenced in Subsection 711.01 of these rules shall be those limitations as provided in Section 63-3029M, Idaho Code. ()

06. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. ()

07. Coordination With Investment Tax Credit and Property Tax Exemption in Lieu of the Investment Tax Credit. ()

a. A taxpayer who elects to claim the biofuel infrastructure investment tax credit on qualified investment may not claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. A taxpayer may, however, claim the investment tax credit on property for which he is not claiming the biofuel infrastructure investment tax credit. ()

b. A taxpayer who elects to claim the property tax exemption in lieu of the investment tax credit allowed by Section 63-3029B, Idaho Code, may not claim the biofuel infrastructure investment tax credit on the same

property. ()

c. A taxpayer may claim the investment tax credit, the property tax exemption in lieu of the investment tax credit, and the biofuel infrastructure investment tax credit in the same taxable year. However, only one (1) of the incentives may be claimed on any one (1) property. ()

766. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT -- RECAPTURE (RULE 766).
Section 63-3029M, Idaho Code. ()

01. In General. If a taxpayer is claiming or has claimed the biofuel infrastructure investment tax credit for property that ceases to qualify pursuant to Section 63-3029M, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. See Rule 715 of these rules. The qualified investment shall cease to qualify if any of the following occur prior to the end of the recapture period: ()

a. The biofuel infrastructure is sold or otherwise disposed of: ()

b. The biofuel infrastructure is moved out of Idaho; or ()

c. The biofuel infrastructure ceases to be used in connection with offering biofuel for sale. ()

02. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. ()

767. BIOFUEL INFRASTRUCTURE INVESTMENT CREDIT -- RECORD-KEEPING REQUIREMENTS (RULE 767).
Section 63-3029M, Idaho Code. ()

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the biofuel infrastructure investment tax credit claimed on an income tax return subject to examination. The records must include all of the following: ()

a. A description of the property: ()

b. The asset number assigned to the item of property, if applicable: ()

c. The acquisition date and date placed in service: ()

d. The basis of the property: ()

e. The location and utilization (the usage both in and outside Idaho) of the property including information identifying that the property was used for biofuel; and ()

f. The retirement, disposition, or date transferred out of Idaho, date no longer used in Idaho, or date the biofuel was no longer offered for sale on a continuous basis, if applicable. ()

02. Accounting Records Subject to Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: ()

a. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information: ()

b. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents: ()

c. Records verifying ownership including purchase contracts and proof of payment: ()

d. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho and the purchase of biofuel offered for resale; and ()

e. A system that verifies that property on which the biofuel infrastructure investment tax credit was claimed continues to maintain its status as qualified investment throughout the recapture period. ()

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. ()

04. Unitary Taxpayers. Corporations claiming the biofuel infrastructure investment tax credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. ()

768. -- 769. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

799. PRIORITY ORDER OF CREDITS AND ADJUSTMENTS TO CREDITS (RULE 799). (5-3-03)
Section 63-3029P, Idaho Code.

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (3-20-97)

b. For part-year residents only, the grocery credit as authorized by Section 63-3024A, Idaho Code; (5-3-03)

c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)

d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)

e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (3-30-01)

f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (3-30-01)

g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)

h. Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code; (3-15-02)

i. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)

j. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)

k. Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code. (3-15-02)

- l.** Corporate headquarters investment tax credit as authorized by Section 63-2903, Idaho Code. (4-11-06)
- m.** Corporate headquarters real property improvement tax credit as authorized by Section 63-2904, Idaho Code. (4-11-06)
- n.** Corporate headquarters new jobs tax credit as authorized by Section 63-2905, Idaho Code. (4-11-06)
- o.** Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-11-06)
- p.** Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-11-06)
- q.** Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-11-06)
- r.** Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (3-30-07)
- s.** Biofuel infrastructure investment tax credit as authorized by Section 63-3029M, Idaho Code. ()
- 03. Adjustments to Credits.** (4-11-06)

 - a.** Adjustments to the amount of a credit earned shall be determined pursuant to the law applicable to the taxable year in which the credit was earned. (4-11-06)
 - b.** Adjustments to the amount of a credit earned may be made even though the taxable year in which the credit was earned is closed due to the statute of limitations. Such adjustments to the earned credit shall also apply to any taxable years to which the credit was carried over. (4-11-06)
 - c.** If the taxable year in which the credit was earned or carried over to is closed due to the statute of limitations, any adjustments to the credit earned shall not result in any tax due or refund for the closed taxable years. However, the adjustments may result in tax due or a refund in a carryover year if the carryover year is open to the statute of limitations. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

800. VALID INCOME TAX RETURNS (RULE 800).

Section 63-3030, Idaho Code. (3-20-97)

01. Requirements of a Valid Income Tax Return. In addition to the requirements set forth in IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 150, an income tax return shall meet the requirements set forth in this rule. Those that fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be completed according to these requirements and resubmitted to the Tax Commission. A taxpayer who does not file a valid income tax return is considered to have filed no return. (3-15-02)

02. Copy of Federal Return Required. A taxpayer shall include with the Idaho return a complete copy of the federal income tax return including all forms, schedules and attachments. *If an individual files an Idaho Form 40EZ, a copy of the federal income tax return is not required.* (3-15-02)()

03. Verification of Idaho Income Tax Withheld. A taxpayer who files an Idaho individual income tax return and reports Idaho income tax withheld shall attach appropriate Forms W-2 and 1099 and other information forms that verify the amount of the Idaho income tax withheld. ()

(BREAK IN CONTINUITY OF SECTIONS)

880. CREDITS AND REFUNDS (RULE 880).

Section 63-3072, Idaho Code. (3-20-97)

01. Overpayment. The term overpayment includes: (3-20-97)

a. A voluntary and unrequested payment greater than an actual tax liability. (3-20-97)

b. An excessive amount that an employer withholds pursuant to Sections 63-3035 and 63-3036, Idaho Code. (3-20-97)

c. All amounts erroneously or illegally assessed or collected. (3-20-97)

d. The term overpayment does not include an amount paid pursuant to a final determination of tax, including a compromise and closing agreement, decision of the Tax Commission, decision of the Board of Tax Appeals, or final court judgment. (3-20-97)

02. Requirements of a Valid Refund Claim. Before the Tax Commission can credit or refund an overpayment, the taxpayer making the claim must establish both of the following: ()

a. The basis for the credit or refund claim, and ()

b. The amount of the overpayment. ()

023. Timely Claim Required for Refund. (3-20-97)

a. The Tax Commission may not credit or refund an overpayment after the expiration of the period of limitations unless the taxpayer filed a claim before the expiration of the period. (3-20-97)

b. When an adjustment to the taxpayer's federal return affects the calculation or application of an Idaho net operating loss, capital loss, or Idaho credit in a year otherwise closed by the period of limitations, the taxpayer has one (1) year from the date of the final determination to file a claim for refund. (3-20-97)()

034. Amended Returns Required as Refund Claims. The claim for a credit or refund must be made on an amended Idaho income tax return that is properly signed and includes an explanation of each legal or factual basis in sufficient detail to inform the Tax Commission of the reason for the claim. By signing the amended return the taxpayer shall be declaring that the claim for refund is true and correct to the best of his knowledge and belief and is made under the penalties of perjury. (4-6-05)

045. Closed Issues. The Tax Commission shall deny a credit or refund claim for a taxable year for which the Tax Commission has issued a Notice of Deficiency, unless the taxpayer shows that the changes on the amended return are unrelated to the adjustments in the Notice of Deficiency or that the changes result from a final federal determination. (3-20-97)

056. Limitations on Refunds of Withholding and Estimated Payments. The Tax Commission may not refund taxes withheld from wages unless the taxpayer files a return within three (3) years after the due date. See Section 63-3072(c), Idaho Code. The Tax Commission may not refund any payment received with an extension of time to file or with a tentative return, including quarterly estimated payments, unless the taxpayer makes a claim for a refund within three (3) years of the due date of the return. (3-15-02)

067. Reduction or Denial of Refund Claims. If the Tax Commission determines that a refund claim is in error, the Tax Commission shall deny the claim in whole or part. Unless the denial results from a mathematical error by the claimant, the Tax Commission shall give notice of the denial by a Notice of Deficiency in the manner

required by Section 63-3045, Idaho Code, and related rules. The protest and appeal process that applies to a Notice of Deficiency also applies to the denial or reduction of a refund. See Section 63-3045A, Idaho Code, for information on mathematical errors. (3-20-97)

078. Amended Federal Return. Filing a claim with the Internal Revenue Service to reduce taxable income does not extend the Idaho period of limitations for claiming a refund or credit of tax. If the statute of limitations is about to expire on a taxpayer's Idaho return for which an issue is pending on his federal return or return filed with another state, the taxpayer should amend his Idaho return. He should clearly identify the amended return as a protective claim for refund. The taxpayer must notify the Tax Commission of the final resolution. (7-1-98)

089. Combined Reports -- Final Federal Determination and Change of Filing Method. If the Idaho period of limitations is open due to a final federal determination, a corporate taxpayer may not adjust its Idaho return to include a previously omitted corporation or to exclude any corporation previously included in a combined report. (3-20-97)

0910. Duplicate Returns. If a return is filed pursuant to Section 63-217(1)(b), Idaho Code, where the taxpayer establishes by competent evidence that the return was deposited in the United States mail or with a qualifying private delivery service (See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010) on or before the date for filing and the Tax Commission has notified the taxpayer that it has not received the return, the taxpayer shall submit a duplicate return within fifteen (15) days of such notification for the newly filed return to qualify as a duplicate return. The period of limitations for a duplicate return is the later of one (1) year from the filing of the duplicate return or the date provided for in Section 63-3072(b), Idaho Code. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

946. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION -- RECAPTURE (RULE 946).
Section 63-4407, Idaho Code. (3-30-07)

01. Failure to Meet Tax Incentive Criteria. If a taxpayer fails to meet the small employer tax incentive criteria, the full amount of the small employer investment tax credit, real property improvement tax credit and new jobs tax credit claimed in any taxable year shall be recaptured. (3-30-07)

02. Year Deficiency Occurs. Recapture shall be a deficiency in tax in the taxable year when the disqualification first occurs. For investment in new plant, disqualification occurs when the property is disposed of or otherwise ceases to qualify. For new employees, disqualification occurs when the ~~employment of new employees falls below the level of new employees required by Section 63-4402(2)(j), Idaho Code~~ average number of qualifying employees for a taxable year in the recapture period falls below the average number of qualifying employees for the year in which the credit was earned in Section 63-4405, Idaho Code. (~~3-30-07~~)()

03. Early Disposition of Investment in New Plant. (3-30-07)

a. If an investment in new plant is disposed of, or otherwise ceases to qualify, prior to the close of the recapture period, the recapture amount shall be computed by multiplying the credit earned by the applicable recapture percentage. (3-30-07)

b. The recapture percentage shall be determined as follows. If the property is disposed of or ceases to qualify within: (3-30-07)

i. One (1) full year or less from the date the property was placed in service, one hundred percent (100%) shall be used; (3-30-07)

ii. Two (2) full years or less, but more than one (1) full year from the date the property was placed in service, eighty percent (80%) shall be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the property was placed in service, sixty percent (60%) shall be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the property was placed in service, forty percent (40%) shall be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the property was placed in service, twenty percent (20%) shall be used. (3-30-07)

04. Failure to Maintain Increased Employment. (3-30-07)

a. If the ~~required increased level of employment~~ average number of qualifying employees for the taxable year in which the credit was earned in Section 63-4405, Idaho Code, is not maintained for the entire recapture period, the recapture amount shall be computed by multiplying the credit earned by the applicable recapture percentage. ~~(3-30-07)~~(____)

b. The recapture percentage shall be determined as follows. If the ~~increased~~ level of employment is maintained: ~~(3-30-07)~~(____)

i. One (1) full year or less from the date the project period ends, one hundred percent (100%) shall be used; (3-30-07)

ii. Two (2) full years or less, but more than one (1) full year from the date the project period ends, eighty percent (80%) shall be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the project period ends, sixty percent (60%) shall be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the project period ends, forty percent (40%) shall be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the project period ends, twenty percent (20%) shall be used. (3-30-07)

c. Recapture shall not be required if a new employee is replaced by another employee who performs the same duties as the previous employee at a wage rate that would have resulted in the same amount of credit being earned. (3-30-07)

05. Reorganizations, Mergers and Liquidations. (3-30-07)

a. If the investment in new plant is disposed of or otherwise ceases to qualify before the close of the recapture period while in the hands of an acquiring taxpayer who succeeded to unused small employer investment tax credit or small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the acquiring taxpayer shall be responsible for any recapture that would have been applicable to the transferor. (3-30-07)

b. For purposes of computing the recapture when an acquiring taxpayer succeeded to unused small employer investment tax credit and small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the recapture period shall begin with the date on which the property was placed in service by the transferor taxpayer and shall end with the date of the disposition by, or cessation with respect to, the acquiring taxpayer. (3-30-07)

IDAPA 35 - STATE TAX COMMISSION
35.01.02 - SALES TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0102-0603
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, 63-3624, 63-3635, and 63-3039.

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 October 17, 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:

Rule 068: Amend the dates for the schedules to reflect the 6% tax rate.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7544

In accordance with 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 November 1, 2006.**

**The text of the Temporary Rule was published in the Idaho Administrative Bulletin,
Volume 06-12, December 6, 2006, pages 117 through 119.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0603

068. COLLECTION OF TAX (RULE 068).

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by Rule 105 of these rules. (4-11-06)

02. Sales Tax To Be Collected by Retailer. Sales tax shall be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation of Tax. The retailer will compute the tax upon the total sale to a purchaser at a given time and not upon each individual item purchased. (7-1-93)

04. Bracket System for Five Percent Tax Rate. The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale ~~beginning~~ if the sales tax rate is 5%. The 5% tax rate was in effect from July 1, 2005, through September 30, 2006. (~~4-11-06~~)()

- a. Multiply five cents (\$0.05) for every whole dollar included in the sale, and (7-1-93)
- b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale		Tax
0.00 - 0.05	-	.00
0.06 - 0.25	-	.01
0.26 - 0.45	-	.02
0.46 - 0.65	-	.03
0.66 - 0.85	-	.04
0.86 - 0.99	-	.05

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (7-1-93)

05. Bracket System for Six Percent Tax Rate. Beginning ~~May 1, 2003, and ending June 30, 2005~~ October 1, 2006, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. (~~4-11-06~~)()

- a. Multiply six cents (\$0.06) for every whole dollar included in the sale, and (3-20-04)
- b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale		Tax
0.00 - 0.03	-	.00
0.04 - 0.20	-	.01

Dollar Amount of Sale		Tax
0.21 - 0.37	-	.02
0.38 - 0.53	-	.03
0.54 - 0.70	-	.04
0.71 - 0.87	-	.05
0.88 - 0.99	-	.06

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (3-20-04)

06. Tax to Be Separately Displayed. The amount of tax collected by the retailer must be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax. (7-1-93)

07. Reimbursement of Tax From the Purchaser to the Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the purchaser if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code. (7-1-93)

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer. (7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. (7-1-93)

d. The receivable established by the seller seeking reimbursement from the purchaser is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. (7-1-93)

IDAPA 35 - STATE TAX COMMISSION
35.01.02 - SALES TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0102-0701
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(s) 63-105, 63-3624, 63-3635, and 63-3039.

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 October 17, 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:

Rule 010: Amend to define “tax rate” as the current rate in effect and explain that references to the rate may not reflect the current rate. Also, define “fleet” to be one or more vehicles registered under the International Registration Plan as required by Section 63-3622R, Idaho Code.

Rule 015: Amend to state that pumps supplying water to land and buildings will generally be considered fixtures. The Tax Commission has often treated pumps as personal property depending on where they are installed and how they are used. Pumps used in manufacturing and other industrial or commercial process will generally be considered personal property and their use will therefore qualify for the production exemption, Section 63-3622D, Idaho Code.

Rule 041, 058, 073: Delete references to a specific tax rate.

Rule 063: Amend examples to change the 5% rate to 6%.

Rule 067: Amend to state that, in most cases, store fixtures are to be considered personal property. Also, add a subsection stating that cable that must be removed from buildings when abandoned is personal property.

Rule 085: Add statements to clarify that the primary purpose of organizations claiming the exemption must be the provision of free dental care to children; that the primary use of the items purchased must be for the provision of free dental care to children; that children are persons under the age of 18.

Rule 106: Change the word “average” to “clean.” The NADA now calls the “average retail price” the “clean retail price.”

Rule 107: Incorporates by reference the definition of “trailer” in the Motor Vehicle Code, Idaho Code §§ 49-121 and 49-122.

Rule 109: Add a statement clarifying that an increase in the permit fee for amusement devices will be effective on the following July 1 if an increase in the tax rate takes place on a date other than July 1.

Rule 117: Add language to clarify refund claims must state the amount of the refund.

Rule 135: New proposed rule to specify the exemption of sales of aerial tramways, snow making, and snow grooming equipment applies to component parts of snow making and snow grooming equipment. The statute is unclear as to whether the exemption is intended to apply to sales of component parts of snow making and snow grooming equipment. The legislative history shows that the statute actually was intended to include these component parts.

Rule 136: New proposed rule to specify that retailers located in a qualifying shopping center must file a separate

return for that location only, that sales information from retailers located in such shopping centers may not be released to the public, and that the developer must provide the names and tax identification numbers of the retailers located in a qualifying shopping center.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Jim Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7544

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0701

010. DEFINITIONS (RULE 010).

01. Admissions. The term admissions includes the right or privilege to enter into a place including seats and tables reserved or otherwise and other similar accommodations and charges made therefor. (7-1-93)

02. Aircraft. The term aircraft means any contrivance now known or hereafter invented, used, or designed, for navigation of or flight in the air. (7-1-93)

03. Cash Discount. The term cash discount means a discount offered by a retailer to a purchaser as an inducement for prompt payment. (7-1-93)

04. Contractor Improving Real Property. A contractor is any person acting as a general contractor, subcontractor, contractee, subcontractee, or speculation contractor, spec contractor, who uses material and equipment to perform any written or verbal contract to improve, alter, or repair real property. (7-1-93)

05. Fleet. The term fleet shall mean one (1) or more vehicles registered under the International Registration Plan or a similar proportional registration system. (7-1-93)()

06. Hand Tool. A hand tool is an instrument used or worked by hand. (7-1-93)

07. Logging. The term logging includes the harvesting of forest trees for resale by cutting, skidding, loading, thinning, or decking, regardless of whether the forest trees are owned by the person doing the harvesting.

The term logging does not include harvesting timber for firewood.

(7-1-93)

08. Manufactured Home/Mobile Home. The term manufactured home, previously known as a mobile home, means a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this section except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. 5401, et seq.

(7-1-93)

09. Manufacturer's Discount Coupon. The term manufacturer's discount coupon means a price reduction coupon presented by a consumer to a retailer upon purchase of a manufacturer's product, the face value of which may only be reimbursed by the manufacturer to the retailer.

(7-1-93)

10. Manufacturer's Rebates. The term manufacturer's rebate means a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer.

(7-1-93)

11. Mining. The term "mining" means the extraction from the earth of minerals including coal, phosphate, sodium, molybdenum, asbestos, gold, silver, lead, zinc, copper, antimony, building stone, pumice, scoria, clay, diatomaceous earth, sand, gravel, quartz, limestone, and marble, and includes the further processing of such mineral. The term "mining" does not include the extraction from the earth of geothermal resources nor does it include the extraction of soil.

(6-23-94)

12. Modular Building. The term modular building, previously known as a prefabricated building, means any building or building component, other than a manufactured home as defined, above, which is constructed according to standards contained in the *Uniform International Building Code*, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site, and is designed to be affixed to real property.

(7-1-93)()

13. Office Trailer. An office trailer is a structure which is built on a permanent chassis, is transportable in one (1) or more sections, and is designed for use as an office.

(7-1-93)

14. Orthopedic Appliances. The term orthopedic appliance shall include those braces and other external supports prescribed by a practitioner for the purpose of correction or relief of defects, diseases, or injuries to bones or joints.

(7-1-93)

15. Prescription or Work Order. The terms prescription or work order shall mean an order issued to, or on behalf of, a specific individual by a practitioner licensed by the state under Title 54, Idaho Code, to prescribe such items.

(7-1-93)

16. Real Property. The term real property means land and improvements or fixtures to the land.

(7-1-93)

17. Tax Rate. The terms "tax rate" or "rate" means the current tax rate as defined in Sections 63-3619 and 63-3621, Idaho Code. References to the tax rate in these rules may not reflect the current rate in effect. ()

(BREAK IN CONTINUITY OF SECTIONS)

015. WELL DRILLERS/PUMP INSTALLERS (RULE 015).

01. In General. This rule is meant to explain how Idaho sales and use tax applies to contractors who

drill wells and install pumps. The general principles in ~~ISTC~~ Rule 012 of these rules, Contractors Improving Real Property, also apply to well drillers and pump installers and should be reviewed along with this rule. ~~(7-1-93)~~(____)

02. Types. The types of wells covered by this rule include, but are not limited to: (7-1-93)

a. Water wells, including those for municipal, domestic, commercial, and industrial purposes, and wells used for agricultural irrigation. (7-1-93)

b. Monitor wells used to check for contamination or to find the water table. (7-1-93)

c. Anode wells used to ground power or gas lines. (7-1-93)

d. Construction wells used for pilings, shoring, and elevator hoists. (7-1-93)

03. Contractor Improving Real Property. A well driller/~~pump installer~~ is a contractor improving real property. In general, he is subject to sales or use tax on materials and equipment he owns and uses or over which he exercises right or power while performing a contract. He should not charge sales tax on materials, such as casing, pumps, screens, piping, etc., used to complete a well. Section 63-3609(a), Idaho Code, states that these materials are consumed by the well driller/~~pump installer~~. He is subject to tax even if the owner of the material is exempt from the tax, such as a government agency. Well drillers/~~pump installers~~ may be responsible for use tax on owner-supplied materials. See ISTC Rule 012. Exemptions are discussed in ~~ISTC Rule~~ Subsection 015.05 of this rule. Pumps that are installed with a well, such as a pump that supplies water to land or a building, are presumed to be real property improvements. Pumps that do not supply water to land or buildings and are used in commercial or industrial applications will generally be considered personal property unless they have been so integrated into the real estate that they would be considered a permanent fixture. ~~(7-1-93)~~(____)

a. Example: A well driller/~~pump installer~~ contracts to drill a water well and install a pump for a homeowner. He bills the homeowner separately for materials and labor as well as the drill bits he used. He should pay sales or use tax on his purchase of the materials and drill bits. ~~Sales tax~~ He should not be charged sales tax to the customer since this is a contract to improve real property. ~~(7-1-93)~~(____)

b. Example: A well driller/~~pump installer~~ contracts to drill a well for an Idaho city. He must pay sales or use tax on the materials and pumps used to complete the well, even though the eventual owner of these items is a governmental entity. See Rule 094 of these rules. ~~(7-1-93)~~(____)

04. Well Drillers/Pump Installers as a Retailer. In some cases, a well driller/~~or~~ pump installer also may be a retailer. For instance, he may sell casing, pumps or pump parts with no installation. In this case, he must have a seller's permit number, collect sales tax, and file sales tax returns, just like any other retailer. For more information on contractor/s who are also retailers, see ~~ISTC~~ Rule 014 of these rules. ~~(7-1-93)~~(____)

05. Exemptions. In some cases, exemptions may apply to materials installed by well drillers and pump installers. Note: These exemptions apply only to project materials and not to construction equipment and supplies, such as drilling rigs and drill bits. If a well driller/~~or~~ pump installer makes exempt purchases, he must complete an exemption certificate for the vendor's records. ~~(7-1-93)~~(____)

a. Materials installed in a well which will be used primarily for agricultural irrigation are exempt under Section 63-3622W, Idaho Code. The exemption applies even if the materials become part of the real property. Agricultural irrigation includes supplying water to crops, livestock, and fish which are produced for resale. (7-1-93)

b. Pumps and other equipment used directly in manufacturing or processing are exempt under Section 63-3622D, Idaho Code. Generally, such pumps retain the characteristics of personal property. This exemption applies only to tangible personal property. It does not apply to materials which will become part of real property. Examples include: pumps used directly in food processing; booster pumps and chlorine pumps used directly in manufacturing; and dairy waste pumps. ~~(7-1-93)~~(____)

06. Motor Vehicles. In general, drilling rigs and licensed motor vehicles are subject to sales or use tax when purchased by a well driller/~~or~~ pump installer. However, if a vehicle weighs more than twenty-six thousand

(26,000) pounds, is used more than ten percent (10%) of the time outside of Idaho, and is registered under the International Registration Plan or similar pro rata plan, its purchase is exempt. See ~~ISTC~~ Rule 101 of these rules. This exemption does not apply to repair parts for motor vehicles, or to drilling rigs purchased separately from a motor vehicle. (7-1-93)()

07. Fuel. Motor fuel taxes do not apply, or a refund may be obtained, if the fuel is used to run drilling rigs or other off-road equipment. Fuel purchased for such off-highway use is subject to sales or use tax. See Sections 63-2410 and 63-2423, Idaho Code, and related IDAPA 35.01.05, "Idaho Motor Fuels Tax Rules." (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

041. FOOD, MEALS, OR DRINKS (RULE 041).

01. In General. This rule covers the imposition of tax on sales of food, meals, or drinks by commercial establishments, college campuses, conventions, nonprofit organizations, private clubs, and similar organizations. (7-1-93)

02. Commercial Establishments. Sales tax is imposed on the amount paid for food, meals, or drinks furnished by any restaurant, cafeteria, eating house, hotel, drugstore, diner, club, or any other place or organization regardless of whether meals are regularly served to the public. (7-1-93)

03. Clubs and Organizations. Private clubs, country clubs, athletic clubs, fraternal, and other similar organizations are retailers of tangible personal property sold by them, even if they make sales only to members. Such organizations must obtain an Idaho seller's permit and report and pay retail sales tax on all sales. Taxability of membership dues depends upon the nature of the club. See Rule 030 of these rules. Special rules apply to religious organizations. See Rule 086 of these rules. (3-15-02)

a. When an organization holds a function in its own quarters, maintains its own kitchen facilities, and sells tickets which include items such as meals, dancing, drinks, entertainment, speakers, and registration fees (convention), the charges may be separated and tax collected on meals, drinks, and admission fees when the ticket is sold. For example:

<i>Dinner, dancing, etc.</i>	<i>\$ 8.00</i>
<i>Tax</i>	<i>-.40</i>
<i>Registration, speakers, etc.</i>	<i>\$ 6.60</i>
<i>Total Ticket</i>	<i>\$15.00</i>

an organization holds a dinner dance in its own building. It charges twenty dollars (\$20) for dinner and dancing and twelve dollars (\$12) for registration and speakers. Since the two (2) amounts are stated separately, tax is only imposed on twenty dollars (\$20). The amount of the tax must also be stated separately. Sales of meals and the use of recreational facilities are taxable. Registration fees, speaker fees, and similar charges are not taxable. (4-11-06)()

b. The organization holding the function or convention must obtain a seller's permit and remit tax to the state. When the charges are not separated, the total price of the ticket is taxable. (7-1-93)

c. When an organization holds a function in facilities operated by a restaurant or motel and sells tickets for meals, drinks, and other services, no sales tax applies to these sales if the organization pays the restaurant or hotel sales tax on the meals and drinks furnished and all other services performed. The hotel, restaurant, or caterer will remit the tax to the state. (7-1-93)

04. Colleges, Universities, and Schools. A cafeteria operated by a state university, junior college district, public school district, or any other public body is treated the same as a cafeteria operated by a private enterprise. Purchases of food for resale are not taxable; meals sold are taxable. (7-1-93)

a. If a meal is paid for by cash or a meal ticket is sold to the student, tax is computed on the total sales price of the meal. If meals are sold as part of a room and board fee, the amount paid for board must be separated from the amount paid for the room. Tax is calculated and collected on that part of the total fee allocated to the purchase of meals. (7-1-93)

b. Sales of meals by public or private schools under the Federal School Lunch Program are exempted by Section 63-3622J, Idaho Code. (7-1-93)

05. Fraternities, Sororities, and Cooperative Living Group. Fraternities and sororities generally purchase and prepare food for their own consumption. The food is prepared and served in a cooperative manner by members of the fraternity or by employees hired by the group for this purpose. Purchases made by the fraternity or sorority are for consumptive use and subject to sales tax. There is no sale of meals to fraternity or sorority members and no sales tax imposed on any allocated charge for them whether stated separately or included as part of a lump sum charge for board and room. (7-1-93)

a. If a concessionaire is retained by the fraternity or sorority to furnish meals, the concessionaire is a retailer engaged in the business of selling meals; food purchases are for resale and meals supplied by the concessionaire to members of the fraternity or sorority are subject to sales tax. (7-1-93)

b. If the fraternity or sorority regularly furnishes meals for a consideration to nonmembers, these meals become subject to tax and the fraternity or sorority must obtain an Idaho seller's permit. (7-1-93)

c. Cooperative living groups are normally managed in much the same manner as fraternities and sororities. Food is purchased and meals are prepared and served by members of the group or their employees. The same conditions outlined above for fraternities and sororities apply to cooperative living groups. (4-11-06)

06. Boarding Houses. Sales of meals furnished by boarding houses are subject to tax, when they are charged separately. This applies whether or not the meals are served exclusively to regular boarders. Where no separate charge or specific amount is paid for meals furnished, but is included in the regular board and room charges, the boarding house or other place is not considered to be selling meals, but is the consumer of the items used in preparing such meals. (7-1-93)

07. Honor System Snack Sales. Honor system snack sales are those items of individually sized prepackaged snack foods, such as candy, gum, chips, cookies or crackers, which customers may purchase by depositing the purchase price into a collection receptacle. Displays containing these snacks are generally placed in work or office areas and are unattended. Customers are on their honor to pay the posted price for the article removed from the display. Purchases from these snack displays are subject to sales tax. (7-1-93)

a. Sales tax applies to the ~~gross receipts~~ total sales. The posted price must include a statement that sales tax is included. (7-1-93)()

b. The formula for computing the taxable amount is: ~~(Gross Receipts) / (one hundred five percent (105%)) = Taxable Sales. (Taxable Sales) x (five percent (5%)) = Tax Due~~ TS / (100% + TR) where TS is total sales and TR is the tax rate. (4-11-06)()

08. Church Organizations. Special rules apply to religious organizations. See Rule 086 of these rules. (4-11-06)

09. Senior Citizens. Meals sold under programs that provide nutritional meals for the aging under Title III-C of the Older Americans Act, Public Law 93-29, are exempted from the sales tax by Section 63-3622J, Idaho Code. Organizations selling such meals must obtain an Idaho seller's permit and collect sales tax when selling meals to purchasers who are not senior citizens. (7-1-93)

10. Nontaxable Purchases by Establishments Selling Meals or Beverages. Persons who serve food, meals, or drinks for a consideration may purchase tangible personal property without paying tax if the property is for resale to their customers, is included in the fee charged to the customer, and is directly consumed by the customer in

such a way that it cannot be reused. A resale certificate must be provided to the vendor when the establishment purchases such items for resale. See Rule 128 of these rules. Examples of items which are purchased for resale and directly consumed by customers include: (3-15-02)

a. Disposable containers, such as milkshake containers, paper or styrofoam cups and plates, to-go containers and sacks, pizza cartons, and chicken buckets. (7-1-93)

b. Disposable supplies included in the price of the meal or drink, such as drinking straws, stir sticks, paper napkins, paper placemats, and toothpicks. (7-1-93)

c. Candies, popcorn, drinks, or food, when included in the consideration paid for other food, meals, or drinks. (7-1-93)

11. Taxable Purchases by Establishments Selling Meals or Beverages. Tangible personal property which is not included in the fee charged to the customer and not directly consumed by the customer is subject to the tax when purchased by the restaurant, bar, food server, or similar establishment. Tangible personal property which is not directly consumed by the customer includes property that is nondisposable in nature or property that is depreciated in the books and records of the restaurant, bar, or similar establishment. Examples of taxable purchases include: (7-1-93)

a. Waxed paper, stretch wrap, foils, paper towels, garbage can liners, or other paper products consumed by the retailer, as well as linens, silverware, glassware, tablecloths, towels, and nondisposable napkins, furniture, fixtures, cookware, and menus. (7-1-93)

b. Any tangible personal property available to the general public, such as restroom supplies and matches. (7-1-93)

c. Complimentary candies, popcorn, drinks, or food, when patrons are not required to purchase other food, meals, or drinks in order to receive the complimentary goods. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

058. SALES THROUGH VENDING MACHINES (RULE 058).

01. In General. The sale of tangible personal property through a vending machine is a taxable transaction. The term vending machine shall mean any mechanical device which, without the assistance of a human cashier, dispenses tangible personal property to a purchaser who deposits cash in the device. Video games and other coin operated amusement devices are not vending machines. Fees paid for the use of coin operated amusement devices are not subject to sales tax pursuant to Section 63-3623B, Idaho Code. See Rule 109 of these rules. (5-3-03)

02. Amount Subject to Tax. Pursuant to Section 63-3613, Idaho Code, sales of items through a vending machine for amounts from twelve cents (\$0.12) through one dollar (\$1) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for more than one dollar (\$1) are taxable on the retail sales price. Sales of items for a price of eleven cents (\$0.11) or less are exempt from tax pursuant to Section 63-3622L, Idaho Code. (5-3-03)

03. Requirement to Obtain a Seller's Permit. Vendors who sell tangible personal property through a vending machine must obtain a seller's permit. Only one seller's permit is required; however, each vending machine operated by the vendor must conspicuously display the vendor's name, address, and seller's permit number. When a number of vending machines are placed in a single location, the owner's name, address, and seller's permit number need be displayed only once. (5-3-03)

04. Calculation of Tax. The following examples show how vending machine operators shall calculate the amount of sales tax due: (5-3-03)

a. Example 1: Corporation A's business activity consists only of sales through vending machines in various locations in the state of Idaho. All of the items sold in the vending machines are sold for a unit price of twelve cents (\$0.12) or more but none are sold for a price greater than one dollar (\$1). During the month of July, Corporation A's ~~gross receipts~~ total sales from the vending machine sales were ten thousand dollars (\$10,000). Corporation A purchased the items sold during that one (1) month period for eight thousand dollars (\$8,000). The company made no nontaxable or exempt sales. Corporation A should file a sales and use tax return for the month of July, computing and reporting its taxable sales as follows. Numbers correspond to line numbers on the return.

Line 1.	Total sales	\$ 9,360
Line 2.	Less nontaxable sales	\$ 0
Line 3.	Net taxable sales	\$ 9,360
Line 1 computed as follows:		
		8,000 x 117% = \$ 9,360

(3-20-04)()

b. Example 2: During the month of July, Corporation B had total Idaho sales in the amount of ten thousand dollars (\$10,000). In addition to sales through vending machines, the corporation made over-the-counter sales, all of which were taxable, in the amount of two thousand dollars (\$2,000). The remaining eight thousand dollars (\$8,000) constituted sales through vending machines, of which one thousand dollars (\$1,000) was for items with a unit retail price of over one dollar (\$1). The other seven thousand dollars (\$7,000) were sales of items through vending machines with a unit retail price of fifty cents (\$0.50) each. The items sold during the month for fifty cents (\$0.50) each were purchased by Corporation B for five thousand dollars (\$5,000). *Corporation B should file a sales and use tax return for the month, computing and reporting its taxable sales as follows:*

<i>Line 1.</i>	<i>Total sales</i>	<i>\$ 8,793.40</i>
<i>Line 2.</i>	<i>Less nontaxable sales</i>	<i>\$ 0</i>
<i>Line 3.</i>	<i>Net taxable sales</i>	<i>\$ 8,793.40</i>
<i>Line 1 computed as follows:</i>		
		<i>2,000 + (1,000 ÷ 1.05) + (5,000 x 117%) = \$ 8,793.40</i>

The amount to report as taxable sales is:

Taxable Sales = \$2,000 (over the counter items) + \$5,850 (\$5,000 of purchases of items selling for \$.50 x 117%) + (\$1,000 ÷ (1 + tax rate expressed as a decimal) (items sold through vending machines for more that one dollar (\$1)). Assuming a 6% tax rate this amount would be \$1,000 divided by 1.06 or \$943.40.

Note that if a vendor sells some items for more than one dollar (\$1) the sales tax is included in the total ~~receipts~~ sales. This amount must be divided by one (1) plus the current tax rate expressed as a decimal, to determine the ~~receipts~~ sales before sales tax. *If the tax rate is five percent (5%) the divisor is one and five one hundredths (1.05).*

(4-11-06)()

- 05. Cross-References.** (7-1-93)
- a.** Amusement devices, see Rule 109 of these rules. (5-3-03)
 - b.** Money operated dispensing equipment, see Rule 095 of these rules. (5-3-03)
 - c.** Sales of newspapers through vending machines, see Rule 033 of these rules. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

063. BAD DEBTS AND REPOSSESSIONS (RULE 063).

01. In General. Sales tax must be collected on an accrual basis. The tax is owed to the state at the time of sale, regardless of when the payment is made by the customer. (7-1-93)

02. Rules for Unsecured Credit Sales. The following rules apply to unsecured credit sales: (7-1-93)

a. When a seller cannot collect accounts receivable arising from an unsecured credit sale of tangible personal property subject to sales tax, he may make an adjustment on his sales tax return or apply for a refund of taxes according to this rule. (7-1-93)

b. The adjustment or refund may be claimed on the sales tax return for the month in which the bad debt adjustment is made on the books and records of the taxpayer. The tax for which the credit or refund is sought must be included in the amount which is financed and which is charged off as a bad debt for income tax purposes. (6-23-94)

c. A written claim for the refund may also be filed with the State Tax Commission within three (3) years from the time the tax was paid to the State Tax Commission. The State Tax Commission will review all such refund claims. See Rule 117 of these rules, Refund Claims. (3-20-04)

03. Rules for Secured Credit Sales. The following rules apply to secured credit sales: (7-1-93)

a. If the collateral is not repossessed, the seller may treat a bad debt the same as an unsecured credit sale. (7-1-93)

b. If the collateral is repossessed and not seasonably resold at a public or private sale, its retention is considered to satisfy the debt and no bad debt adjustment is allowed. (7-1-93)

c. If the collateral is repossessed and seasonably resold at public or private sale, then the seller is entitled to a bad debt adjustment. However, before calculating the amount of tax that may be credited or refunded, the taxpayer must reduce the amount claimed as worthless by the amount realized from the sale of the collateral. (3-30-01)

d. If merchandise is repossessed and is subsequently resold at retail, sales tax is computed on the sales price and collected and remitted the same as on other retail sales. (7-1-93)

04. Application to Taxpayers. The following rules apply to taxpayers who remit sales tax on an accrual basis but report income tax on a cash basis or are not required to file income tax returns. (7-1-93)

a. Retailers are required to remit sales tax on an accrual basis, even though their accounting records and income tax returns may be prepared on the cash basis of accounting. (7-1-93)

b. For taxpayers who keep their records and file income tax returns on a cash basis, a worthless account cannot be written off as a bad debt because it has not been recognized as income in the taxpayer's books. These retailers may still claim a bad debt for sales tax purposes. The claim should be made at the same time and in the same way discussed in Subsections 063.02 and 063.03 of this rule, even though the bad debt does not appear on the retailer's income tax return. (7-1-93)

c. For taxpayers who are not required to file income tax returns, the claim should be made the same way discussed in Subsections 063.02 and 063.03 of this rule. (6-23-94)

d. As these claims cannot be verified against the income tax returns of these taxpayers, sufficient evidence must be attached to the sales tax return to prove that the account has become worthless, that the tax was remitted by the retailer, and that the retailer did not receive payment of the tax from the buyer. (7-1-93)

05. Amount of Credit Allowed. The amount of credit that can be claimed is the amount of sales tax that is uncollectible. If both nontaxable and taxable items are financed, credit may be taken only for that portion of the bad debt which represents unpaid sales tax. (7-1-93)

a. Example: Assume the tax rate is six percent (6%). A retailer sells a thirty thousand dollar (\$30,000) forklift for thirty-one thousand ~~five~~ eight hundred dollars (\$31,~~5~~800) including sales tax. The purchaser pays a five thousand dollar (\$5,000) down payment and finances the balance. The purchaser later defaults and the retailer repossesses the forklift and sells it at a public auction for six thousand dollars (\$6,000). At the time of repossession the purchaser owes seventeen thousand ~~two~~ five hundred forty-five dollars (\$17,~~2~~545) including the financed sales tax. After the sale the amount that the retailer writes off is eleven thousand ~~two~~ five hundred forty-five dollars (\$11,~~2~~545). The sales tax bad debt write off is ~~five~~ six hundred ~~thirty five~~ fifty-three dollars (~~\$5,356~~53).

Total taxable sale	\$30,000
5% sales tax	\$1, 5 <u>8</u> 00
Total sale	\$31, 5 <u>8</u> 00
Down payment	(\$5,000)
Total financed	\$26, 5 <u>8</u> 00
Payment to principal after sale	(\$9,255)
Amount realized at public sale	(\$6,000)
Total bad debt	\$11, 2 <u>5</u> 45
Sales tax portion of bad debt	$\$11,2545 - (11,2545 / 1.06) = \$$ 535 <u>653</u>

(4-11-06)(_____)

b. Example: A car dealer makes a taxable sale of an automobile for fourteen thousand nine hundred dollars (\$14,900) along with an extended warranty for five hundred dollars (\$500), a documentation fee of one hundred dollars (\$100), a title fee of eight dollars (\$8) and credit insurance for one hundred dollars (\$100). The customer pays one thousand dollars (\$1,000) cash and trades in a car worth ten thousand dollars (\$10,000) which is pledged as security for an earlier outstanding loan of six thousand dollars (\$6,000). The customer, therefore, has to borrow enough to pay off the old loan on the trade-in. The customer defaults on the new ten thousand ~~eight~~ nine hundred ~~fifty~~ eight dollar (\$10,~~850~~908) loan after paying five hundred dollars (\$500) towards the principal. The customer damages the automobile in an accident leaving the collateral worthless. The car dealer may take an adjustment for only that portion of the bad debt representing the taxable percentage of the total sales price of the car. Only five thousand dollars (\$5,000) of the total fifteen thousand ~~eight~~ nine hundred ~~fifty~~ eight dollar (\$15,~~850~~908) cost was taxable.

Sales price of vehicle	\$14,900
Documentation fee	\$100
Extended warranty	\$500
Credit insurance	\$100
Title fee	\$8
Trade-in	(\$10,000)
Sales tax	\$250 <u>300</u>
Subtotal	\$5,858 <u>5,908</u>

Down payment	(\$1,000)
Invoice total	\$4,858 <u>4,908</u>
Amount financed	\$10,850 <u>908</u>
Payment to principal after sale	(\$500)
Amount of bad debt	\$10,350 <u>408</u>
Amount of down payment used to pay sales tax: $(\$250 \text{ } 300 / \$5,858 \text{ } 908) = 4.27 \text{ } 5.08\%$ $0427.0508 \times \$1,000 = \$42.70 \text{ } 50.80$	
Amount of sales tax financed: $\$250 \text{ } 300 - \$0427 \text{ } 50.80 = \$207.30 \text{ } 249.20$	
Percentage of loan representing sales tax: $\$207.30 \text{ } 249.20 / \$10,850 \text{ } 908 = 1.91 \text{ } 2.28\%$	
Sales tax paid by payments to principal: $\$500 \times 0191.0228 = \$9.55 \text{ } 11.40$	
Amount of bad debt write-off: $\$207.30 \text{ } 249.20 - \$9.55 \text{ } 11.40 = \$197.75 \text{ } 237.80$	

(4-11-06)()

06. Bad Debt Collected at a Later Date. If a bad debt account is collected later, the retailer must pay tax on the amount collected. (7-1-93)

07. To Claim Credit for a Bad Debt. Credit for bad debts for sales tax purposes may be claimed by the retailer that made the original sale and paid the sales tax to the state. Financial institutions or other third parties who are the assignees of the retailer may claim a bad debt for sales tax on property for which they provided financing, if the amount financed includes the sales tax remitted on the sale of the property. The person claiming the credit must be the person who ultimately bears the loss if the purchaser of the property defaults on the obligation to repay. (3-30-01)

08. Cross-Reference. Rescinded Sale. See Rule 045 of these rules. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

073. TANGIBLE PERSONAL PROPERTY BROUGHT OR SHIPPED TO IDAHO (RULE 073).

01. Equipment Brought into Idaho. Equipment or other tangible personal property brought or shipped to Idaho by residents or nonresidents is presumed to be for storage, use, or other consumption in this state. Generally, tangible personal property is subject to use tax on its fair market value when it is first used in Idaho. Special rules apply to transient equipment present in Idaho for ninety (90) days or less in any consecutive twelve (12) month period. See Section 63-3621A, Idaho Code, and Subsection 073.03 of this rule. For property a contractor fabricates to install into Idaho real property, see Rule 012 of these rules. (4-11-06)

02. Substantive Use. Any substantive use of the property in Idaho is sufficient to subject the property to use tax. Use is defined in Section 63-3615, Idaho Code, and Rule 072 of these rules. The use tax does not apply to the use of items purchased before July 1, 1965, or the use of items excluded from tax by Idaho Code. (3-20-04)

03. Transient Equipment. Transient equipment means equipment that is: owned by the user, which is a business based in another state; a depreciable asset for income tax purposes and treated as such on the owner's income tax returns; brought to Idaho and kept here for ninety (90) days or less in any consecutive twelve (12) months;

and either was not taxed in another state or, if tax was paid to another state, the amount paid was less than the amount of Idaho use tax due. (7-1-93)

a. A nonresident business that brings transient equipment to Idaho may elect to pay use tax on either the fair market value of the equipment at the time it enters Idaho, or the fair market rental value of transient equipment for the time it is kept in Idaho. Fair market rental value is the amount it would cost to rent or lease similar equipment from an unrelated equipment rental company. (3-20-04)

b. Businesses that elect to pay use tax on the rental value of transient equipment may do so without the approval of the Tax Commission as long as the use tax due on the first month's rental is paid in a timely manner. If the owner fails to pay the tax timely, he must get written approval from the Tax Commission to use this option. (7-1-93)

c. Equipment which remains in Idaho for more than ninety (90) days in any consecutive twelve (12) months is no longer transient. This equipment becomes subject to Idaho use tax on its fair market value at that time. No credit may be taken for use tax paid on fair market rentals against the use tax due at the time equipment ceases to qualify as transient. (7-1-93)

d. Example: A Wyoming contractor brings transient equipment, with a fair market value of one hundred thousand dollars (\$100,000), to Idaho for use on a ninety (90) day project. The fair market rental value of the equipment for the ninety (90) days totals fifteen thousand dollars (\$15,000). Idaho use tax on the fair market rental value, ~~at the~~ assuming a rate of ~~five six~~ percent (~~56~~%), totals ~~seven nine~~ hundred ~~fifty~~ dollars (~~\$7,900~~). The contractor paid three thousand five hundred dollars (\$3,500) of sales tax to the state of Wyoming when he bought the equipment new. The contractor is not required to pay tax to Idaho since the tax paid to Wyoming exceeds the amount of Idaho use tax due. (~~4-11-06~~)()

e. Example: The same contractor ~~takes a second job in the previous example returns to~~ Idaho within the same twelve (12) months ~~and brings with~~ the same equipment, now with a fair market value of ninety-five thousand dollars (\$95,000), ~~to Idaho for the job~~. As the equipment has now exceeded the ninety (90) day rule for transient equipment, it is subject to Idaho's ~~five six~~ percent (~~56~~%) use tax on its ~~fair market present~~ value of ninety-five thousand dollars (\$95,000) x ~~five six~~ percent (~~56~~%) = ~~four five~~ thousand seven hundred ~~fifty~~ dollars (~~\$4,750~~). Credit of two thousand ~~seven hundred fifty six~~ hundred dollars (~~\$2,756~~) is allowed for sales tax paid to Wyoming, three thousand five hundred dollars (\$3,500) less the ~~seven nine~~ hundred ~~fifty~~ dollar (~~\$7,900~~) credit already used on rentals. The contractor owes ~~two three~~ thousand one hundred dollars (~~\$2,000~~ 3,100) of use tax to Idaho. (~~4-11-06~~)()

04. Licensed Motor Vehicles. A motor vehicle licensed in a nonresident's home state and brought to Idaho to use for ninety (90) days or less in any consecutive twelve (12) months is not subject to Idaho use tax. Once the vehicle is used here more than ninety (90) days during any consecutive twelve (12) months, use tax applies to the fair market value of the vehicle at that time unless tax was paid to another state in an amount equal to, or greater than, the tax owed to Idaho. Special rules apply to new residents of Idaho. See Rule 107 of these rules. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

085. SALES TO AND PURCHASES BY NONPROFIT ORGANIZATIONS (RULE 085).

01. In General. The Sales Tax Act does not provide any general exemption for, charitable or nonprofit organizations, corporations, associations or other entities. Specific statutory provisions provide exemptions for some charitable organizations. Unless an exemption is clearly granted to a specific organization or to specific sales or purchases by a specific organization or a class of organization, no exemption applies. Special rules apply to religious organizations. See Rule 086 of these rules. (3-6-00)

02. Educational Institutions. Sales to and purchases made by non-profit educational institutions, as defined in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes. (3-6-00)

03. Health Related Entities. Sales to and purchases made by the specific health related entities listed in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes. Health related organizations not named are not entitled to any exemption from sales and use taxes as a health related entity. (3-6-00)

04. Hospitals. In addition to the health related entities listed in Section 63-3622O, Idaho Code, hospitals which are nonprofit institutions licensed for the care of ill persons are exempt. To qualify for the exemption the hospital must be a facility defined in Section 39-1301(a), Idaho Code, and licensed as provided in Chapter 13, Title 39, Idaho Code, or an equivalent law in another state. Hospitals operated for profit do not qualify for this exemption, nor do nursing homes, clinics, doctors' offices, or similar facilities unless the organization qualifies for an exemption under Section 63-3622O, Idaho Code. (3-6-00)

05. Idaho Foodbank Warehouse, Inc. The Idaho Foodbank Warehouse, Inc. is a nonprofit corporation which gathers food and food products at one (1) central location for distribution to food banks throughout Idaho. All sales to, donations to, and purchases by the Idaho Foodbank Warehouse, Inc., are exempt from sales and use taxes. (3-6-00)

a. Example 1: The XYZ Corporation purchases food from a grocer to donate to the Idaho Foodbank Warehouse, Inc. The XYZ Corporation must pay sales tax on the purchase since they are not purchasing the food for resale and no other exemption applies. (3-6-00)

b. Example 2: The Idaho Food Bank Warehouse, Inc. purchases office supplies. No tax is due on the purchase. (3-6-00)

06. Food Banks and Soup Kitchens. Food banks or soup kitchens are nonprofit organizations, other than the Idaho Foodbank Warehouse, Inc., which, as one of their regular activities, furnish food to others without charge. Sales to, donations to, and purchases of food or tangible personal property used by food banks and soup kitchens other than the Idaho Foodbank Warehouse, Inc. to grow, store, prepare, or serve food are exempt from sales and use taxes. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization. This exemption does not extend to the sale, purchase, or use of licensed motor vehicles by food banks or soup kitchens. (3-6-00)

a. Example 1: A grocer removes food from his inventory of goods held for resale to donate to a food bank or soup kitchen. The grocer is exempt from the use tax on his cost of the inventory donated. (3-6-00)

b. Example 2: The XYZ Corporation purchases food from a grocer to donate to a food bank. The XYZ Corporation is not purchasing the food items for resale, and no other exemption from sales tax applies. Sales tax must be paid on the purchase. (7-1-93)

c. Example 3: A food bank purchases a licensed motor vehicle. The purchase is subject to sales tax because the motor vehicle is not used to grow, prepare, or serve food. (3-6-00)

07. Red Cross. Sales to the American Red Cross are exempted from state sales tax by federal law. (7-1-93)

08. Nonsale Clothiers. Nonprofit organizations, one of whose primary functions is to provide clothing to the needy without charge, may purchase the clothing without paying tax. Only clothing qualifies for the exemption. Other purchases by the organization are taxable. Clothing may also be removed from a resale inventory and donated to these organizations exempt from use tax. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization. (3-6-00)

a. Example 1: A department store removes clothing from resale merchandise to donate to a nonprofit, nonsale clothier. The store is exempt from the use tax on the cost of the inventory donated. (7-1-93)

b. Example 2: A nonprofit, nonsale clothier purchases clothing and bed sheets from a department store to give to the needy. No tax is due on the clothing, but the store must charge the organization sales tax on the bed sheets. (7-1-93)

09. Exemption Certificate. The organizations listed in this rule may make purchases without paying sales tax to the vendor by completing an exemption certificate. See Rule 128 of these rules. (3-6-00)

10. Literature. The sale, purchase, use, or other consumption of literature, pamphlets, periodicals, tracts, books, tapes, audio CDs, and other literature which is produced in a machine readable format that are both published and sold by an entity qualified under Section 501(c)(3) of the Internal Revenue Code are exempt from the tax if no part of the net earnings benefits any individual or shareholder. (3-6-00)

11. Sales by Nonprofit Organizations. An exemption from sales tax on sales to one of the foregoing entities does not constitute an exemption from the requirements to collect and remit tax when the entity makes taxable sales to purchasers not exempt from tax. When an exempt organization qualifies as a retailer the organization must register with the State Tax Commission, obtain a seller's permit, and collect and remit sales taxes on sales as defined in Section 63-3612, Idaho Code, in the same manner and in accordance with the same statutes and rules which govern all other retailers in the state. There are two (2) exceptions to this rule. (3-6-00)

a. Sales of places to sleep by the Idaho Ronald McDonald house are exempt from sales taxes. (3-6-00)

b. Sales of admissions by an entity qualified under Section 501(c)(3) of the Internal Revenue Code, or by an organization conducting an exempt function defined in Section 527 of the Internal Revenue Code when: (3-6-00)

i. The event is not predominately recreational or commercial; and (3-6-00)

ii. Any entertainment value included in the admission charge is minimal when compared to the charge for admission; and (3-6-00)

iii. Such entity has paid a sales or use tax on taxable purchases or tangible personal property or services consumed during the event. (3-6-00)

12. Senior Citizen Centers. ~~Beginning July 1, 2002, s~~ Sales to certain senior citizen centers are exempt from sales tax. The definition of "senior citizen center" in Section 63-3622O, Idaho Code, is the same as the definition of a "multipurpose senior center" as defined in the Older Americans Act, Title 42, Section 3002, United States Code. To qualify for the exemption the center must have been granted exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code. Long-term care facilities do not qualify for this exemption. ~~(5-3-03)~~()

13. Free Dental Clinics. Sales to and purchases by organizations providing free dental care to children are exempt from sales and use tax. For the purposes of this exemption "children" shall mean persons under the age of eighteen (18). To qualify for the exemption property or services must be: ()

a. Purchased by an organization whose primary purpose is providing free dental care to children; and ()

b. Primarily used by an organization whose primary purpose is providing free dental care to children. ()

(BREAK IN CONTINUITY OF SECTIONS)

106. MOTOR VEHICLES SALES, RENTALS, AND LEASES (RULE 106).

01. In General. The sale, lease, rental, or purchase of a motor vehicle is subject to sales and use tax. Retailers, lessors, and dealers are required to collect the tax. (7-1-93)

02. Forms. The forms required for sales and use tax collection and reporting include the following, with modifications that may be required from time to time: (7-1-93)

- a. The title application form required by the Idaho Transportation Department. (7-1-93)
- b. Form ST-133, Sales Tax Exemption Certificate-Transfer Affidavit, used for gifts of motor vehicles, sales between family members, and sales to enrolled members of an Indian tribe within the boundaries of an Indian reservation. (7-1-93)
- c. Form ST-104-MV, Sales Tax Exemption Certificate-Vehicle, used by persons claiming exemption under Section 63-3622, Idaho Code. (7-1-93)
- d. Other forms that may be required by the Tax Commission or the Idaho Transportation Department. (7-1-93)

03. Vehicles Purchased from Idaho Dealers. When a dealer of new or used motor vehicles sells any motor vehicle for delivery in Idaho, he must collect sales or use tax at the rate in effect on the date the motor vehicle is delivered to the buyer, unless an exemption applies. He must also prepare a title application form and include the dealer's Idaho seller's permit number, gross sales price, trade-in allowance, net sales price, and total tax collected. A title application form which is completed by the dealer and displays Idaho sales tax collected is evidence that the buyer paid sales tax to the dealer. (7-1-93)

04. Vehicles Purchased from Out-of-State Dealers. Title applications for vehicles purchased from out-of-state dealers must be made according to Idaho Transportation Department instructions. Any trade-in allowance must be shown on the original bill of sale, voucher, or other receipt from the out-of-state dealer. If sales tax was correctly paid to a dealer in another state, a credit is allowed against sales or use tax payable to Idaho. ~~Refer to ISTC~~ See Rule 107 of these rules. (7-1-93)(____)

05. Vehicles Purchased from Nondealers. (7-1-93)

a. Title applications for vehicles purchased from nondealers, who are not required to have an Idaho seller's permit, must be made according to Idaho Transportation Department instructions. The buyer must present a bill of sale or receipt as proof of the gross sales price. Canceled checks will not be accepted in lieu of a bill of sale. In the absence of a bill of sale, sales tax is collected on the value established as the ~~average~~ "clean retail price," in the most recent National Automobile Dealers Association (NADA), Official Used Car Guide, published by the National Automobile Dealers Used Car Guide Company. Where there is a sale by a nondealer, a trade-in allowance is not allowed. See ~~ISTC~~ Rule 044 of these rules. The county assessor or Idaho Transportation Department must collect sales tax on the gross sales price and remit the tax to the Tax Commission. Barter of motor vehicles are taxable on the full value of each vehicle or other property which is the object of barter. Sales tax shall be collected on the value established as the ~~average~~ "clean retail price," stated for similar makes and models with comparable options in the most recent NADA Official Used Car Guide. (7-1-93)(____)

b. A retailer required to have an Idaho seller's permit must collect the sales tax when selling a motor vehicle, even though he is not licensed as a motor vehicle dealer. The retailer must give the buyer the title to the motor vehicle, properly completing title transfer information on the title, including the retailer's seller's permit number as proof that Idaho sales tax was collected. The retailer must also give the buyer a bill of sale stating: the date of sale; the name and address of the seller; the complete vehicle description including the VIN, vehicle identification number, which must agree with the VIN on the title; the person to whom the vehicle was sold; the amount for which the vehicle was sold; and the amount of sales tax charged. (7-1-93)

c. A retailer is not relieved of the responsibility for collecting the tax unless he can provide satisfactory evidence to the Tax Commission that the buyer paid tax to the county assessor or Idaho Transportation Department. If a retailer fails to collect the tax from the buyer, the county assessor or Idaho Transportation Department must collect the tax. (7-1-93)

06. Vehicles Rented or Leased. (7-1-93)

a. A lease-purchase and lease with option to purchase have separate definitions and tax applications. See ~~ISTC~~ Rule 024 of these rules. A lease-purchase is subject to sales or use tax on the full purchase price at the time

the vehicle is delivered to the lessee. A true lease and a lease with an option to purchase are subject to sales tax on each lease payment and on the buy-out or residual value when a lessee exercises his option to buy. The information in ~~this~~ Section 106 deals with rentals, true leases, and leases with an option to buy. (7-1-93)(____)

b. The lessor of a motor vehicle is a retailer and must collect sales tax from the lessee on any rental or lease payment on the date it is required to be made, at the tax rate in effect on that date. The lessor must also collect tax on any lessee's exercise of an option to buy based on the full purchase price or residual, at the tax rate in effect on the date title is transferred to the lessee. (7-1-93)

c. The lessor may not rely on the county assessor or the Idaho Transportation Department to collect sales or use tax if the purchase option is exercised. (7-1-93)

d. The lessor must collect sales tax on each lease payment received from the renter or lessee and remit the tax to the state. The sales tax is applicable whether the vehicle is leased or rented on an hourly, daily, weekly, monthly, mileage, or any other basis. (7-1-93)

e. If the lessor is responsible for maintaining the vehicle and this is stated in the lease or rental agreement, tax does not apply to his purchase of necessary repair parts. (7-1-93)

f. Out-of-state lessors must obtain a seller's permit and comply with this rule. If the county assessor or Idaho Transportation Department cannot verify that the lessor is properly registered to collect the tax, title and registration will be denied. (7-1-93)

g. When a vehicle is traded in as part payment for the rental or lease of another vehicle, a deduction is allowed before computing the sales tax. The methods of applying the trade-in value to the lease are found in *ISTC* Rule 044 of these rules. (7-1-93)(____)

07. Cross-References. (7-1-93)

a. *ISTC* See Rule 024 of these rules. Rentals or leases of tangible personal property. (7-1-93)(____)

b. *ISTC* See Rule 044 of these rules. Trade-ins, trade-downs, and barter. (7-1-93)(____)

c. *ISTC* See Rule 099 of these rules. Occasional sales. (7-1-93)(____)

d. *ISTC* See Rule 091 of these rules. Sales to indians. (7-1-93)(____)

e. *ISTC* See Rule 101 of these rules. Motor vehicles and trailers used in interstate commerce. (7-1-93)(____)

f. *ISTC* See Rule 107 of these rules. Motor vehicles gifts, military personnel, and exemptions. (7-1-93)(____)

g. *ISTC* See Rule 108 of these rules. Motor vehicles manufacturer's, rental company's and dealer's purchase or use of motor vehicles. (7-1-93)(____)

107. VEHICLES AND VESSELS -- GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS (RULE 107).

01. In General. This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of motor vehicles. (3-6-00)

02. Gifts of Motor Vehicles. When the following facts clearly establish that a motor vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (7-1-93)

- a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)
- b. The recipient assumes no indebtedness. (7-1-93)
- c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)
- d. The donor and recipient complete and sign a Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, and submit it to the county assessor or the Idaho Transportation Department along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit: (2-18-02)
- i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor or his representative and attached to the affidavit; or (2-18-02)
- ii. The back of the title may be marked as a gift and signed by the donor. (2-18-02)
- 03. Nonresidents.** (3-30-07)
- a. A nonresident does not owe use tax on the use of a motor vehicle which is purchased outside of Idaho and titled or registered ~~or licensed~~ under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this Subsection (107.03.a.), a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. This exemption applies only to nonresidents. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more motor vehicles is not a nonresident. The use of a vehicle owned by such an entity will be subject to use tax upon its first use in Idaho. (~~3-30-07~~)(____)
- b. For the purposes of this rule, a corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state. (3-30-07)
- 04. New Residents.** A new resident of Idaho does not owe tax on the use of household goods, personal effects and privately owned motor vehicles, if he acquired them while he resided in another state and used them primarily outside Idaho. If a vehicle owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that the vehicle was primarily for use outside Idaho. New residents entering Idaho with a vehicle titled in a state that does not impose a general sales and use tax will be required to complete and sign a Three Month Exemption Claim Form ST-102 and submit it to the Idaho Transportation Department or county assessor when applying for a title transfer. (2-18-02)
- a. If the vehicle was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (7-1-93)
- b. Exclusion from the tax applies only to motor vehicles owned by an individual. A privately owned motor vehicle is one which is owned by, and titled to, a private individual or individuals. (3-6-00)
- 05. Military Personnel.** Military personnel receive no special exemption from the Idaho sales and use tax regarding motor vehicles or other tangible personal property. The exemptions discussed in this rule apply equally to military and nonmilitary personnel. A military person with a home of record other than Idaho is considered to be a nonresident. A military person whose home of record is Idaho is considered to be a resident of this state. Example: A military officer with a home of record in Oregon brings a vehicle purchased in Germany to Idaho upon being stationed at Mountain Home Air Force Base. During his first year at Mountain Home, the vehicle is present in Idaho for more than ninety (90) days. The exemption provided to nonresidents, as discussed in Subsection 107.03 of this rule, does not apply. Use tax applies to the fair market value of the vehicle. (7-1-93)
- 06. Tax Paid to Another State.** When a general retail sales tax has been properly imposed by another

state or political subdivision of a state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. The credit for state and local taxes paid in another state will be applied first to the state sales tax due and the remainder, if any, will be applied to any local taxes due. (3-30-07)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A ~~Wyoming~~ resident of another state buys a vehicle ~~there in that state~~ for ten thousand dollars (\$10,000) two (2) months before moving to Idaho. He presents his ~~Wyoming~~ title from the other state to an Idaho county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to ~~Wyoming~~ the other state was three hundred dollars (\$300) when the vehicle was purchased. Credit for this amount is allowed against the five hundred dollars (\$500) tax due Idaho. The assessor will collect two hundred dollars (\$200) tax. (~~4-11-06~~)()

c. Example: A ~~vehicle was~~ resident of another state purchased ~~by a Colorado resident~~ vehicle two (2) months before moving to Idaho. The applicant paid ~~three~~ four percent (~~34~~%) ~~Colorado~~ state sales tax, one and six tenths ~~of one~~ percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total ~~Colorado~~ general sales tax paid was ~~six~~ seven and two tenths percent (~~67.2~~%). Since the Idaho tax rate is five percent (5%) lower, no tax is due Idaho because the amount of tax paid to ~~Colorado~~ the other state exceeds the amount owed Idaho. (~~4-11-06~~)()

d. Example: A resident of Alaska purchases a vehicle immediately prior to moving to Idaho. The purchaser paid a three percent (3%) city sales tax in Alaska. When the purchaser moves to Idaho, credit will be given for the local tax paid against the Idaho state use tax due. (3-30-07)

e. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the motor vehicle from tax. (7-1-93)

f. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

g. Taxes paid to another nation cannot be offset against the taxes owed to Idaho. (7-1-93)

07. Sales to Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and buyer must complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor or his representative and attached to the affidavit. (2-18-02)

b. This exemption does not apply if the seller did not pay tax when he acquired the vehicle. (7-1-93)

c. Example: An Oregon resident buys a vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay a sales or use tax when he acquired the vehicle. The son is required to pay Idaho use tax on the ten thousand dollar (\$10,000) purchase price of the vehicle. (4-11-06)

08. Sales to American Indians. An enrolled American Indian tribal member may buy a motor vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian Reservation. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and the buyer must complete and sign Sales Tax Exemption Certificate - Transfer Affidavit Form ST-133 including the name of the tribe, Tribal Identification Number and the name of the Reservation upon which the sale and delivery occurred. The affidavit is then given to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. (2-18-02)

09. Bulk Sale Transfers. A transfer or sale of a motor vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer must complete and sign Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit Form ST-133CATS to present to the Idaho Transportation Department or county assessor when applying for transfer of title. The buyer must attach a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (2-18-02)

10. Vehicles and Vessels Purchased in Idaho by Nonresidents for Use Outside Idaho. (5-3-03)

a. Sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), off-highway motorcycles, and snowmobiles for use out of this state, even though delivery is made within this state are exempt from tax when: (5-3-03)

i. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (5-3-03)

ii. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than sixty (60) days in any twelve-month period. (5-3-03)

b. To claim the exemption, the buyer must provide the seller a completed and signed Sales Tax Exemption Certificate - Vehicle/Vessel Form ST104-MV. (5-3-03)

c. This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, or inflatable boats regardless of length when sold without a motor. (5-3-03)

d. For purposes of Subsection 107.10 of this rule, an ATV means any recreational vehicle with three (3) or more tires, weighing under eight hundred fifty (850) pounds, forty-eight (48) inches or less in width, having a wheel base of sixty-one (61) inches or less, and traveling on low pressure tires of less than ten (10) psi. (3-20-04)

e. For purposes of Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: (3-20-04)

i. Sold together with a motor; or (5-3-03)

ii. Eleven (11) feet in length or more, not including canoes, kayaks, or inflatable boats unless such canoe, kayak, or inflatable boat is sold together with attached motor. (5-3-03)

f. For the purposes of Subsection 107.10 of this rule a trailer must meet the definition of either "trailer" or "utility trailer" found in Sections 49-121 and 49-122 Idaho Code, which is a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term "trailer" includes the specific types of trailers defined in Sections 49-121(6)(a) through 49-121(6)(h), Idaho Code. ()

fg. To qualify for this exemption the purchaser must be a nonresident of Idaho. An Idaho resident may form an LLC or other legal entity under the laws of another state. If such an LLC or other entity is formed primarily for the purpose of owning one (1) or more motor vehicles it is not a nonresident. The purchase or use of a motor vehicle in Idaho by such an entity is taxable. (3-30-07)

11. Motor Vehicles and Trailers Used in Interstate Commerce. The sale of motor vehicles with a

maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The owner must complete and sign the Sales Tax Exemption Certificate - Vehicle/Vessel Form ST-104MV, and provide it to the seller, the Idaho Transportation Department or the county assessor when applying for title transfer. See Rule 101 of these rules. (5-3-03)

12. Related Party Transfers and Sales. Certain transfers and sales of motor vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner must complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to submit to the Idaho Transportation Department or county assessor when applying for title transfer. (2-18-02)

(BREAK IN CONTINUITY OF SECTIONS)

109. AMUSEMENT DEVICES (RULE 109).

01. Currency Operated Amusement Devices. "Amusement device" means all currency or token operated machines and devices used for amusement or entertainment. This definition includes, but is not limited to, game machines; pool tables; jukeboxes; electronic games; video or cinematic viewing devices; crane, rotary, and pusher machines; and similar devices. It does not include vending machines that are used to sell tangible personal property or noncurrency operated machines or games described in Subsection 109.03 of this rule. (6-30-95)

02. Requirement to Obtain Permit. The owner or operator of amusement devices is required to obtain a seller's permit if he is making retail sales other than the use of currency or token operated amusement devices. If the owner or operator is not making such other retail sales, he need not obtain a seller's permit, but must obtain an amusement device permit for each device in service. (6-30-95)

a. *From July 1, 1995 to June 30, 2004, owners or operators of amusement devices were required to pay a fee of thirty five dollars (\$35) per machine in service or use. The fee for permits purchased for the year beginning July 1, 2004, is forty two dollars (\$42). Beginning July 1, 2005, the fee for permits will be thirty five dollars (\$35). The fee will change by an amount proportional to any change in the sales tax rate. Owners and operators of coin or currency operated amusement devices are required to pay a permit fee for every such device in operation. At a tax rate of 5% this fee is thirty-five dollars (\$35). Section 63-3623B(c), Idaho Code, states that the fee may be increased proportionately to any increase in the tax rate. The formula ~~to apply~~ to calculate the permit fee is seven hundred dollars (\$700) x tax rate. For example, at a tax rate of five percent (5%) ~~tax rate~~ the amount of the permit fee is ~~therefore~~ seven hundred dollars (\$700) x five percent (5%) = thirty-five dollars (\$35). If the tax rate is six percent (6%), the permit fee will be forty-two dollars (\$42). If any change in the tax rate becomes effective on July 1 of a given year, the charge for the permit fee will change proportionately on that date also. If a change in the tax rate occurs on a day other than July 1, the permit fee will be changed on the next July 1 following the change in the tax rate.* (4-11-06)()

b. Upon receiving the appropriate payment, the Tax Commission will issue to the owner or operator of one or more amusement devices, a permit for each such device in service. A separate permit on each device in service is required. The permit shall be affixed near the currency slot of the machine in such a manner that it is easily visible. Permits are transferable from one person to another after written notice of the transfer is received and acknowledged by the Tax Commission. Permits may be transferred from a machine that is no longer in service to another machine owned or operated by the same person. An amusement device permit is not valid unless the name and business address of the owner or operator is typed or printed in black ink on the face of the permit. (3-16-04)

c. Video amusement devices may have more than one (1) monitor and be designed to be operated independently by more than one (1) person. In such cases a separate permit is required for each monitor. (6-30-95)

d. Amusement device permits must be renewed annually. Annual permits are valid from July 1 through June 30. Permits must be renewed on or before July 1 by the owner or operator of the amusement devices. Amusement devices acquired after July 1 or placed in service before the next July 1 will require the appropriate fee

for a full-year permit.

(3-16-04)

03. Noncoin Operated Amusement Machines or Games. Charges for the use of amusement machines or games which are not currency or token operated are subject to tax at the prevailing rate times one hundred percent (100%) of the gross proceeds received for the use of the device. This applies regardless of the method the owner or operator uses to determine the charge, such as by the hour or by the game. The owner or operator of noncurrency or nontoken operated amusement machines or games is required to obtain a seller's permit if he is charging for the use of such machines.

(6-30-95)

04. Cross-Reference. See Rule 095 of these rules regarding purchases of Money-Operated Dispensing Equipment.

(3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

117. REFUND CLAIMS (RULE 117).

01. In General. Application for refund of sales or use taxes paid in excess of those properly imposed by the Sales Tax Act, shall be in accordance with the provisions of this rule.

(7-1-93)

02. Payment of Sales Tax by a Purchaser to a Vendor. When a purchaser has paid sales tax to a vendor, and later determines that the sales tax was paid in error, the purchaser shall request the refund from the vendor to whom the excess tax was paid. If the purchaser can provide evidence that the vendor has refused to refund the tax, he may then file a claim for refund directly with the Tax Commission.

(7-1-93)

03. Payment of Sales or Use Tax Directly to the State. When a person holding a seller's permit or use tax account number has paid tax to the state, and later determines that the sales or use tax was paid in error, he may file a claim for refund directly with the Tax Commission.

(7-1-93)

04. Bad Debts. Claims for refunds arising from bad debts must be filed with the Tax Commission in the manner prescribed by Rule 063 of these rules.

(5-3-03)

05. Mathematical Errors. When the filer of sales or use tax returns determines that a mathematical error has been made on a previously filed return resulting in overpayment of the proper amount of sales or use taxes, he may file a claim for refund directly with the Tax Commission.

(7-1-93)

06. Claim Form. Form TCR, Sales Tax Refund Claim, may be used to file for a refund from the Commission. Although this form is available for this purpose, it is not required. A refund claim, however, must be in writing. The claim must include the full name and address of the claimant and his seller's permit number or use tax account number if the claimant has such a number. The claim must state the amount of the refund include a detailed statement of the reason the claimant believes a refund is due, including a description of the tangible personal property, if any, to which the tax relates and the date on which the claimed excess taxes were paid. If the claimant is the retailer, the claim for refund must include a statement, under oath, that the amount of tax plus interest refunded to the retailer have been or will be refunded by the retailer to the purchaser.

~~(4-6-05)~~(____)

07. Outstanding Liabilities. No claim for refund will be approved or issued if the claimant has outstanding liabilities for other taxes administered by the Tax Commission.

(5-3-03)

08. Payment Under Protest. It is not necessary for a taxpayer to pay taxes under protest in order to subsequently be able to claim a refund of such taxes.

(7-1-93)

09. Statute of Limitations. A claim for refund will not be allowed if it is filed more than three (3) years from the time the payment of the tax was made. The time the payment was made is the date upon which the sales or use tax return relating to the payment was filed with the State Tax Commission.

(5-3-03)

10. Taxes Paid in Response to a Notice of Deficiency Determination. A claim for refund may not be

filed relating to any sales or use taxes which have been asserted by a notice of deficiency determination. A taxpayer contending that taxes have been erroneously or illegally collected by the State Tax Commission in conformance with a notice of deficiency determination must seek a refund by using the appeal procedures outlined in Rule 121 of these rules. (5-3-03)

11. Denial of a Refund Claim. All claims for refund or credit will be reviewed by the State Tax Commission's staff. If the staff concludes that all or part of the claim should not be allowed, notice of denial of the claim shall be given to the claimant by return receipt requested delivery. The notice shall include a statement of the reasons for the denial. The notice of denial shall be the equivalent of a notice of deficiency determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must file a petition for redetermination in the manner prescribed in Rule 121 of these rules. A petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to or served on the claimant. (5-3-03)

12. Interest on Refunds. See Rule 122 of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

135. SNOWGROOMING AND SNOWMAKING EQUIPMENT (RULE 135).

01. Exemption for Snow Equipment. Section 63-3622Y, Idaho Code, exempts the sale, storage, use or other consumption of tangible personal property that will become a component of an aerial passenger tramway and snowgrooming and snowmaking equipment purchased and used by the owner or operator of a downhill ski area. This exemption also extends to sales and purchases of component parts used to build or repair snowgrooming and snowmaking equipment. ()

02. Consumable Supplies Not Exempt. This exemption only applies to sales and purchases of equipment that will become a component part of snowmaking or snowgrooming equipment. It does not apply to sales and purchases of fuel, fluids, or other consumable supplies. ()

136. REBATES PAID TO CERTAIN REAL ESTATE DEVELOPERS (RULE 136).

01. Rebate of Sales Tax. Section 63-3641, Idaho Code, provides for a rebate of sales taxes to be paid to real estate developers who build a qualifying retail complex at a cost of four million dollars (\$4,000,000) or more and who expend more than eight million dollars (\$8,000,000) for the installation of a highway interchange or for freeway interchange improvements on an interstate highway. For the purposes of this rule, the term "qualifying shopping center" shall mean a qualifying retail complex as specified by Section 63-3641, Idaho Code. ()

02. Qualifying Shopping Center Location. Retailers that are located in a qualifying shopping center must apply for a separate sellers' permit and file a separate sales tax return for that location. A retailer who ceases operation in a qualifying shopping center must notify the Tax Commission and cancel the sellers' permit for that location. ()

03. Confidential Information. Information about an individual store's sales or aggregate sales for stores located in a qualifying shopping center is confidential and may not be released to the public. ()

04. Developer Responsibilities. The developer of a qualifying shopping center must provide the names and taxpayer identification numbers of the stores located in the shopping center to the Tax Commission. The developer must also notify the Tax Commission whenever a new retailer begins operation or when a retailer ceases operations in a qualifying shopping center. ()

05. Certifying Expenditures Prior to Rebate Payment. No rebate will be paid unless the Idaho Department of Transportation or an appropriate political subdivision of the state of Idaho has certified as to the amounts actually expended and that the expenditures were made for the purpose of constructing a highway interchange or for freeway interchange improvements. ()

1357. -- 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 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 63-105A, Idaho Code, and the repeal of Section 63-602FF, 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 October 14, 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:

Rule 802: Change is needed to be consistent with legislative changes. The changes implement HB79 providing a definition and removing new construction within revenue allocation areas from the budget growth formula until the revenue allocation area is dissolved.

Rule 803: Change is needed to be consistent with legislative changes. The changes implement HB1 (8/2006) and HB197 providing directions for calculation of the maximum property tax funds for tort funds for school districts.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2), the Governor has found that temporary adoption of the rule is appropriate for the following reasons: In compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section(s) 67-5226(2), the Governor has found that the fee or charge being imposed or increase is justified and necessary to avoid immediate danger and the fee is appropriate for the following reasons: N/A

FISCAL IMPACT: Not applicable, this rule does not result in any measurable fiscal impact beyond that resulting from the legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID, 83722-0410
(208) 334-7530

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0701

802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (RULE 802).

Sections 63-802, and 63-301A, Idaho Code. (3-30-07)

01. Definitions. (4-5-00)

a. “Change of Land Use Classification.” “Change of land use classification” shall mean any change in land use resulting in a category change and in an increase in taxable land value to be reflected on the current property roll. (3-30-07)

i. This increase in value due to change of land use classification shall be reported on the new construction roll in the year in which the new category appears on the current property roll unless the increase in value was previously included on the new construction roll. (3-30-07)

ii. The increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (3-30-07)

iii. When the land value, had the land remained in its previous use category, is less than the land value for a previous year in which value for the same property was included in the value reported on the new construction roll, the value calculated in Subparagraph 802.01.a.ii. of this Rule shall be reduced by the value included on any previous new construction roll. (3-30-07)

b. “Incremental Value as of December 31, 2006.” “Incremental value as of December 31, 2006” means the total of the increment values on the property roll, subsequent property roll, missed property roll, and operating property roll in 2006. (1-1-07)T

bc. “Nonresidential Structure.” “Nonresidential structure” shall mean any structure listed by the assessor in any secondary category not described as residential, manufactured homes, or improvements to manufactured homes pursuant to in Rule ~~130~~ 511 of these rules. (~~5-3-03~~)(1-1-07)T

02. New Construction Roll Listing. “Listing” shall mean a summary report of the net taxable value of property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, including but shall not include otherwise qualifying new construction, within the value of which will be included in the increment value of any revenue allocation area within any urban renewal district encompassed by the taxing district or unit. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. When a taxing district proves new construction described by Section 63-301A(3), Idaho Code, has never been included on a new construction roll, the county assessor must list that property on the immediate next new construction roll at the value proven by the taxing district. Any such additional new construction must also be separately listed for each taxing district or unit, and the separate listing must show the year or years of the new construction roll that would have been appropriate for this additional new construction. The taxing district has the burden of proving the new construction was omitted from any new construction roll and the value that would have been listed for that property had it been listed on the appropriate new construction roll. No taxing district shall ever be granted any increase in budget authority greater than the amount that would have resulted had the property been listed on the appropriate new construction roll. Regardless of the year that the new construction should have been listed on the appropriate new construction roll, additional budget authority resulting from new construction previously omitted from a new construction roll and listed on the current year’s new construction roll shall be permitted only if the taxing district is in compliance with the budget hearing notification requirements of Section 63-802A, Idaho Code, for the current year. (~~7-1-99~~)(1-1-07)T

03. Manufactured Housing. “Installation” of new or used manufactured housing shall mean capturing

the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

04. Partial New Construction Values. ~~Except as provided in Subsection 802.05 of this rule, the net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Except as provided in Subsection 802.05 of this rule, Any increase in a nonresidential parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. If any of this difference is attributable to inflation, such value, except as provided in Subsection 802.05 of this rule, shall not be included on the new construction roll.~~

Example: Assume a partially completed, nonresidential improvement was assessed at ten thousand dollars (\$10,000) as of January 1, 2004. The improvement was occupied February 2, 2004. Assume the ten thousand dollars (\$10,000) value was on the 2004 new construction roll. Assume that in 2005 the improvement is assessed at ninety thousand dollars (\$90,000). Assume there has been no inflation. The value that can be reported on the 2005 new construction roll is calculated as follows:

2005 Value	\$90,000
2004 Value Already Reported on New Construction Roll	<\$10,000>
2005 New Construction Roll Value (this improvement)	\$80,000

~~(4-11-06)(1-1-07)T~~

05. Change in ~~Exemption~~ Status.

~~(5-3-03)(1-1-07)T~~

a. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W, Idaho Code. (7-1-99)

b. ~~For any rural subdivision parcels of land changing use as a result of removal of the exemption under Section 63-602FF, Idaho Code, the increase in value resulting from the removal of this exemption shall not be listed on the new construction roll when the increase in value was already listed on any previous year's new construction roll. Upon receipt by the State Tax Commission of a resolution recommending adoption of an ordinance for termination of a revenue allocation area under Section 50-2903(5), Idaho Code, any positive difference of the most current increment value minus the "incremental value as of December 31, 2006," shall be added to the appropriate year's new construction roll. When this information is received after the fourth Monday in July, this positive net increment value shall be added to the following year's new construction roll.~~ ~~(5-3-03)(1-1-07)T~~

06. Value of Annexation to Exclude New Construction. When determining the maximum property tax funded budget that may be certified under Section 63-802, Idaho Code, the annexation value shall include all taxable value within the annexed area except the value of new construction, outside revenue allocation areas. ~~Except for new construction within a revenue allocation area, the value of new construction within the annexed area shall be excluded from the value of the annexed area but included on the new construction roll for the taxing district annexing the area where the property is located, thereby preventing double counting of new construction value within the annexed area.~~ ~~(4-11-06)(1-1-07)T~~

07. Notification of New Construction Roll and Annexation Values. On or before the fourth Monday in July, each county auditor must report the net taxable values on the new construction roll and within annexed areas for each appropriate taxing district or unit to that taxing district or unit. (3-20-04)

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803). Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), and 63-3638(10), Idaho Code. ~~(4-6-05)(1-1-07)T~~

01. Definitions.

(4-5-00)

a. "Dollar Certification Form" (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and

approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code. (4-6-05)

b. “Prior Year’s Market Value for Assessment Purposes.” Prior year’s market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code, ~~and for fire districts, pursuant to Section 31-1420(3), Idaho Code.~~ (4-5-00)(1-1-07)T

c. “Annual Budget.” For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f); ~~or 63-802(1)(g), or 31-1420(3),~~ Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(f); ~~or 63-802(1)(g), and 31-1420(3)~~ Idaho Code, then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	FY 1999	FY 2000	FY 2001	FY 2002
Annual Budget	\$10,000	\$10,000	\$10,700	\$11,621
3% Increase	\$0	\$300	\$321	\$349
Subtotal	\$10,000	\$10,300	\$11,021	\$11,970
1999 Election Amount	\$0	\$400 of \$1,000	\$600 of \$1,000	\$0
Certified Budget	\$10,000	\$10,700	\$11,621	\$11,970

*The Library District with zero dollars (\$0) in value for new construction and/or annexation approves an additional budget amount of one thousand dollars (\$1,000) in 1999, but only certifies four hundred dollars (\$400) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. (4-6-05)

d. “Property Tax Funded Budget.” Property tax funded budget means that portion of any taxing district’s budget certified to the Board of County Commissioners, approved by the State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. “Recovered/Recaptured Property Tax List.” Recovered/recaptured property tax list means the report sent by the county auditor to the appropriate taxing district(s)/unit(s) by the first Monday in August and to the State Tax Commission with the L-2 Forms, listing the amount of revenue distributed to each appropriate taxing district/unit as recovery of property tax under Section 63-602G(5), Idaho Code, and/or as recapture of property tax under Section 63-3029B(4), Idaho Code, during the twelve (12) month period ending June 30 each year. (4-6-05)

f. “Taxing District/Unit.” Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those noncountywide governmental entities without authority to levy property taxes but on whose behalf such taxes are levied or allocated by an authorized entity such as the county or city for such entities as county road and bridge funds or urban renewal agencies, respectively. (4-6-05)

g. “New Taxing District.” For property tax budget and levy purposes, new taxing district means any taxing district for which no property tax revenue has previously been levied. See the Idaho Supreme Court case of Idaho County Property Owners Association, Inc. v. Sringa General Hospital District, 119 Idaho 309, 805 P.2d 1233 (1991). (1-1-07)T

02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located by submitting the completed L-2 Form

prescribed by the State Tax Commission. (4-6-05)

03. Budget Certification Requested Documents. Using the completed L-2 Form, ~~Each Board of County Commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The Board of County Commissioners shall not submit other documents unless requested to do so only submit documentation specifically requested by the State Tax Commission. Documents not to be submitted to the State Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents.~~ (4-6-05)(1-1-07)T

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. (3-20-04)

a. “Department or Fund.” Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. “Total Approved Budget.” List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. “Cash Forward Balance.” List any money brought forward from a prior year to help fund the approved budget. Cash forward balance (Column 3) is the difference between the total approved budget (Column 2) and the sum of amounts reported as other revenue not shown in Column 5 (Column 4), agricultural equipment property tax replacement (Column 5), and balance to be levied (Column 6). (3-15-02)

d. “Other Revenue not Shown in Column 5.” List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

e. “Property Tax Replacement.” Report the sum of only the following: (4-6-05)

i. The amount of money received annually under Section 63-3638(10), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code ~~(For school districts, the amount of money to be included is only the appropriate amount of such money to be subtracted, as provided in Subsection 803.06 of this rule, not all such money.);~~ (4-6-05)(1-1-07)T

ii. The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the “Recovered/recaptured property tax list”; (4-6-05)

iii. The amount of money received as recapture of the property tax benefit under Section 63-3029B(4), Idaho Code, and listed on the “Recovered/recaptured property tax list”; and (4-6-05)

iv. The appropriate amount of money listed on the statement and distributed to the county and each appropriate city under Section 63-2603, Idaho Code, as county property tax relief and detention facility debt retirement. (4-6-05)

f. “Balance to be Levied.” Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)

g. Other Information. Provide the following additional information. (4-5-00)

i. The name of the taxing district or unit; (3-20-04)

ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)

iii. The signature, date signed, printed name, address, and phone number of an authorized

- representative of the taxing district; and (5-3-03)
- iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)
 - h.** Attached Information. Other information submitted to the county auditor with the L-2 Form. (4-6-05)
 - i. For all taxing districts, L-2 worksheet. (3-20-04)
 - ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (3-20-04)
 - iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, and plant facility funds), notice of election and election results. (3-20-04)
 - iv. Voter approved fund tracker. (3-20-04)
 - v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (3-20-04)
 - vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the Board of County Commissioners and the Board of the Library District reporting the dedicated portion of that city's property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (3-20-04)
 - vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the Board of County Commissioners a copy of the certification from that city reporting the information provided for in Subparagraph 803.04.h.vi., of this rule. (4-6-05)

05. Special Provisions for Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

- a.** The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)
- b.** Said new agreement succeeds the original agreement; and (3-30-01)
- c.** In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions for Property Tax Replacement Pursuant to Section 63-3638, Idaho Code. Property tax replacement monies received pursuant to Section 63-3638, Idaho Code, must be reported on the L-2 Form. For all taxing districts ~~except school districts~~, these monies must be subtracted from the "balance to be levied". ~~For school districts, only "appropriate property tax replacement monies" are to be subtracted.~~ The reduced balance shall be used to compute levies, but the maximum amount permitted pursuant to Sections 63-802 and 33-802, Idaho Code, shall be based on the sum of these property tax replacement monies and the amount actually levied, ~~or, for school districts, the sum of "appropriate property tax replacement monies" and the amount actually levied.~~ (4-6-05)(1-1-07)T

~~**a.** "Appropriate property tax replacement monies" is determined only for school districts and means all property tax replacement monies received pursuant to Section 63-3638, Idaho Code, except an amount equal to~~

~~four thousands (0.004) multiplied by the year 2000 value of property exempted in Section 63-602EE, Idaho Code. If the amount so determined is greater than the total amount of property tax replacement monies, no property tax replacement monies received pursuant to Section 63-3638, Idaho Code, shall be subtracted from the school district maintenance and operation's (M&O) budget. (4-6-05)~~

~~**ba.** After receipt from the counties of the year 2000 tax charges on property exempted in Section 63-602EE, Idaho Code, but no later than July 23, 2001, the State Tax Commission shall notify each county clerk of the amount of property tax replacement money to be paid to each taxing district in that county. Beginning in 2002 and thereafter, ~~the~~ The State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money to be paid to a taxing district ~~or the "appropriate amount of property tax replacement money" to be paid to any school district~~ changes from the amount paid in the preceding year. ~~In 2002,~~ By the first Monday of May, ~~the~~ State Tax Commission shall ~~also notify each county clerk of the amount of the "appropriate property tax replacement monies" to be subtracted before computing the M&O levy for each school district~~ further notify each school district and each county clerk of any changes in the amount of property tax replacement money to be received by that school district pursuant to Section 63-3638(10), Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature. (5-3-03)(1-1-07)T~~

~~**eb.** By no later than the first Monday of August of each year, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies that will be received ~~and shall further notify each school district of the appropriate amount to be subtracted before the M&O levy is computed.~~ (5-3-03)(1-1-07)T~~

~~**ec.** The subtraction required in Subsection 803.06 of this Rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code, ~~and from school district maintenance and operation funds made pursuant to Section 33-802, Idaho Code.~~ For school districts this subtraction must be first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. (4-6-05)(1-1-07)T~~

~~**ed.** Levy limits shall be tested against the amount actually levied. (3-15-02)~~

07. Special Provisions for Library Districts Consolidating with Any City's Existing Library Operations or Services. For any library district consolidating with any city's existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule shall be added to that library district's property tax funded budget in effect at the time of the election for consolidation. This total shall be used as this district's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

08. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule shall be subtracted from that city's total property tax funded budget in effect at the time of the election for the consolidation. This difference shall be used as this city's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

09. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds. Whenever the "Calculated Levy Rate" column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the "Column Total" entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (4-6-05)

10. Special Provisions for School Districts' Tort Funds - Hypothetical New Construction Levy. To calculate the new construction portion of the allowed annual increase in a school district's tort fund under Section 63-802(1), Idaho Code, calculate a Hypothetical New Construction Levy. To calculate this levy, sum the school district's tort fund for the prior year and the agricultural equipment replacement revenue subtracted from that tort fund, then divide this sum by the school district's taxable value used to determine the tort fund's levy for the prior year. For the current year, the allowed tort fund increase for new construction is this Hypothetical New Construction Levy times

the current year's new construction roll value for the school district.

(1-1-07)T

11. Special Provisions for Interim Abatement Districts. When an interim abatement district transitions into a formally defined abatement district under Section 39-2812, Idaho Code, the formally defined abatement district shall not be considered a new taxing district as defined in Paragraph 803.01.g. of this rule for the purposes of Section 63-802, Idaho Code. For the formally defined abatement district, the annual budget subject to the limitations of Section 63-802, Idaho Code, shall be the amount of property tax revenue approved for the interim abatement district.

(1-1-07)

12. Cross Reference for School Districts with Tuition Funds. For any school district certifying a tuition fund levy in 2006 or any year thereafter, see Section 33-1408, Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature, for clarification that the amount of property tax revenue for a tuition fund is not subject to the limitations of Section 63-802, Idaho Code.

(1-1-07)T

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - IDAHO PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0702
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-105A.

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 October 17, 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:

Rule 006 is being amended to update references to appropriate and current editions of guides used to determine the values of recreational and certain other vehicles. Amendments also update the reference to the appropriate edition of the register used in the valuation of railcars.

Rule 131 is being amended to provide follow-up procedures when categories in compliance in March final ratio study are discovered to be out of compliance following completion of county board of equalization action.

Rules 205 and 210 are being repealed and replaced with a new Rule 205 to adopt criteria that can be applied more consistently to differentiate real and personal property and to provide that net profits of mines are no longer considered personal property.

Rule 217 is being amended to provide a cross reference and an example of an acceptable procedure for the calculation of the contributory value of income tax credits for Section 42 housing, being consistent with the directions of the Idaho Supreme Court in the case of Brandon Bay Limited Partnership v. Payette County.

Rule 314 is being amended to provide cross references, provide for timely availability of income/expense data on income producing property for completion of appraisals for the property roll, and to identify data to include for valuation of Section 42 projects.

Rule 315 is needed to be consistent with legislative changes resulting from HB 1 (8/2006). Proposed amendments restrict the Commission's responsibility to provide school district adjusted values to apply to the Boise School District only.

Rule 404 is being amended to provide cross references, clarify what property at thermal energy electricity generation facilities is new construction, move apportionment directions to Rule 405, and correct pipeline mileage reporting directions.

Rule 405 is being amended to provide cross references and directions relating to apportionment of property at thermal energy electricity generation facilities.

Rule 415 is being amended to change the date for county treasurers to submit property tax rate information that is used to calculate the tax rates applicable to railcar fleets under \$500,000 (change is from November 1 to November 15).

Rule 509 is being amended to provide a cross reference to rules and statutes that provide procedures for correction of taxable values resulting from errors after county commissioners have taken action under Section 63-809, I.C. and to limit school district abstracts to the Boise School District to be consistent with HB1 (8/2006).

Rule 510 is being amended to provide directions for assigning categories for homesites and when property has multiple uses.

Rule 511 is being amended to provide directions for assigning categories for improvement categories with multiple uses.

Rule 603 is being proposed to implement the requirements of HB 69 to provide directions for calculating the value of the portion of property not permitted the religious property exemption. This occurs whenever that portion equals more than 3% of the value of the entire property. Methods are to be comparable with those used to value the taxable portion of property otherwise exempt under 63-602C, Idaho Code.

Rule 609 is being amended to correct references and add examples for clarification of homeowner's exemption for partial ownership.

Rule 610 is being amended to correct references to Rule 609.

Rule 645 is being amended to provide directions for assigning categories for homesites.

Rule 700 is being amended to add cross reference and example for clarification of calculating benefits for partial ownership. (Reference relates to public benefit in SB1157.)

Rule 701 is a new rule being promulgated to provide procedures for county officials and claimants to provide documentation necessary to verify or to facilitate subsequent electronic verification that claimants are lawfully present in the United States. Requirements are to comply with the provisions of SB 1157.

Rule 717 is being amendment to comply with the requirements of SB 1157 and require the claimant to present information enabling the state tax commission to prove that the claimant is lawfully present in the United States.

Rule 804 is being amended to correct cross references and implement HB1 (8/2006), removing allocation of part of taxes levied on urban renewal district increments to school districts.

Rule 805 is being amended to implement HB1 (8/2006), restricting the budget increase penalty for school districts so that it applies only to their tort funds.

Rule 809 is being proposed to provide a timeline for state tax commission review and approval, and procedures for correction of taxable values resulting from errors when county commissioners take action under Section 63-809, I.C.

Rule 811 is a new rule proposed to clarify the responsibilities of county auditors to compute the total tax charge by taxing district and the responsibilities of county treasurers to compute individual property tax due on each parcel of property.

Rule 966 is being amended to correct a cross reference and wording to be consistent with other rules.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Alan Dornfest
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7544

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0702

006. INCORPORATION BY REFERENCE (RULE 006).

Unless provided otherwise, any reference in these rules to any document identified in Rule 006 of these rules shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards, or rules adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-3-03)

01. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available at main office of the State Tax Commission as listed in Rule 005 of these rules. (5-3-03)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-3-03)

a. “Standard on Ratio Studies” published in 1999 by the International Association of Assessing Officers. (5-3-03)

b. “Recreation Vehicle Guide of the National Automobile Dealers Association” published in 2006~~7~~ for the September through December period by the National Appraisal Guides Incorporated. (~~3-30-07~~)()

c. “Van/Truck Conversion and Limousine Appraisal Guide of the National Automobile Dealers Association” published in 2006~~7~~ for the September through December period by the National Appraisal Guides Incorporated. (~~3-30-07~~)()

d. “Official Railway Equipment Register” published for the last three (3) quarters in 2006~~7~~ and the first quarter in 2007~~8~~ by R. E. R. Publishing Corporation, Agent as a publication of Commonwealth Business Media, Inc. (~~3-30-07~~)()

e. “Forest Habitat Types of Northern Idaho: A Second Approximation” published by the Government Printing Office for the U. S. Forest Service in 1991, General Technical Report INT-236, written by Cooper, Stephen V., Neiman, Kenneth E., Rev, David W., and Roberts, Kenneth E. (4-6-05)

f. “Forest Habitat Types of Central Idaho” published by the Government Printing Office for the Intermountain Forest and Range Experimentation Station of the U. S. Forest Service in 1981, General Technical Report INT-114, written by Kittams, Jay A., Pfister, Robert D., Ryker, Russell A., and Steele, Robert. (5-3-03)

g. “Yield of Even-Aged Stands of Ponderosa Pine” published by the Government Printing Office for the U. S. Department of Agriculture in 1938, Technical Bulletin No. 630. (5-3-03)

h. “Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type” published by the Government Printing Office for the U. S. Department of Agriculture in 1932, Technical Bulletin No. 323. (5-3-03)

i. "Manual of Instructions for the Survey of the Public Lands of the United States" published by the Government Printing Office for the Bureau of Land Management in 1973, Technical Bulletin No. 6. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

131. USE OF RATIO STUDY TO TEST FOR EQUALIZATION IN COUNTIES (RULE 131).
Section 63-109, Idaho Code. (3-30-07)

01. Equalization Ratio Study. Each year the State Tax Commission shall conduct a ratio study to assist in the equalization of assessments of property within and among the primary categories established in Rule 130 of these rules. The ratio study shall be conducted in accordance with the "Standard on Ratio Studies" referenced in Rule 006 of these rules. The annual ratio study shall test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. The study shall be completed in February following the end of the period studied. The appropriate ratio study statistical measure of level shall be the median ~~for equalization ratio studies conducted beginning October 1, 2006.~~ (3-30-07)(____)

02. Tested For Equalization. Beginning with the 2007 ratio study to be complete prior to the first Monday in April, 2008, categories to be tested for equalization purposes are the primary categories, described in Subsections 130.02 through 130.06 of these rules, provided adequate samples can be obtained. (3-30-07)

03. Follow-Up Ratio Study. ~~When the annual ratio study provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule, the State Tax Commission shall conduct a follow-up ratio study. The~~ When indicated, based on criteria in Paragraph 131.03.a. and 131.03.b. of this rule, a follow-up ratio study shall be conducted to test the assessments for January 1 of the year following the year tested by the annual ratio study and shall be based on property sales occurring during the calendar year immediately preceding that date. A follow-up ratio study shall be indicated whenever: (____)

a. The annual ratio study, provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule; or (____)

b. The State Tax Commission is informed after the county board of equalization adjourns and before the state board of equalization adjourns of the implementation of assessment changes likely to result in a finding that a primary category found in compliance with equalization standards following the annual ratio study would be found out of compliance with these standards for the current year's assessments. (____)

04. Notice of Follow-Up Ratio Study. The State Tax Commission shall notify the county assessor of the reason for and results of the follow-up ratio study. If the follow-up ratio study is conducted as provided in Paragraph 131.03.b. of this rule, the notice shall be sent to the county board of equalization and county assessor and shall describe the assessment changes that resulted in the need for the follow-up ratio study. The notice shall indicate whether any adjustments will be considered by the State Tax Commission at its next equalization meeting in August based on either the annual, or any follow-up ratio study, and the reason for the proposed adjustments. ~~(3-30-07)(____)~~

045. Use of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study shall be one (1) source of information upon which the State Tax Commission may rely when testing assessments for equalization purposes under Section 63-109, Idaho Code. When the results of any ratio study on any primary category, described in Subsections 130.02 through 130.06 of these rules, show, with reasonable statistical certainty as defined in Subsection 131.079 of this rule, that the appropriate measure of level of any primary category studied is

less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that primary category may be considered not equalized. When this occurs, the State Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in any primary category or subcategory included in the analysis conducted in an amount the State Tax Commission finds necessary to accomplish equalization of assessments of property. Within any primary category except as provided in Subsection 131.056 of this rule, adjustment will not be considered for any secondary category, described in Rule 510, 511, or 512 of these rules, that does not have at least one (1) observation in the ratio study conducted for that primary category. (3-30-07)(____)

056. Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment shall be applied to any assessed value in secondary category 10, provided there is at least one observation (sale) of property identified in either secondary category 12 or 15. Such adjustment shall also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. (3-30-07)

067. Use of Alternate Ratio Study. When the follow-up ratio study required by Subsection 131.03 of this rule does not measure the true assessment level, the State Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the State Tax Commission has reason to question the representativeness of the sample used in an annual or follow-up ratio study conducted on any primary category, the State Tax Commission may delay implementation of any order to adjust property values until two (2) successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%). (3-30-07)

078. Submission of Additional Information. Any party may petition the State Tax Commission to consider any information or studies relevant to equalization. The petition shall include a description of the information to be presented and the petitioner's conclusions drawn from the information. (4-5-95)

089. Reasonable Statistical Certainty. For the purposes of Rule 131 and equalization pursuant to Section 63-109, Idaho Code, "reasonable statistical certainty" that any primary category is not equalized shall mean that the appropriate measure of level determined by the ratio study for the primary category must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Such a determination shall occur if: (3-30-07)

a. The appropriate measure of level for the primary category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or (3-30-07)

b. The appropriate measure of level for the primary category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the primary category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). No ratio study ~~conducted~~ completed prior to ~~January~~ August 31, 2007 will be considered as one of the most recent previous two (2) ratio studies. (3-30-07)(____)

0910. Cross References. The primary categories are described in Subsections 130.02 through 130.06 of these rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

205. PERSONAL PROPERTY -- ~~DEFINED~~ DEFINITIONS AND GUIDELINES (RULE 205).

Sections 63-201, 63-302, ~~63-304~~, and 63-309, Idaho Code. ~~Personal property can be moved without marring or defacing real property to which it may be attached. Personal property includes the following.~~ (4-5-00)()

01. ~~Equities in State Land.~~ ~~Land purchased from the state under contract is personal property. Tax can be paid in two (2) installments.~~ **Real Property.** Real property means land, all buildings, structures and improvements, or fixtures of whatsoever kind on land. The term improvements does not include the items identified in Section 63-309, Idaho Code, as personal property. (7-1-93)()

02. ~~Reservations and Easements.~~ ~~Reservations include reserved mineral rights and divided ownership of property rights. Easements convey use but not ownership.~~ **Personal Property.** Personal property includes all goods, chattels, stocks and bonds, equities in state lands, easements, reservations and leasehold real properties. (4-5-00)()

03. ~~Machinery, Tools, and Equipment.~~ ~~Mechanical apparatuses, instruments, or implements not permanently integrated with real property, held as tenant improvements, or held for rent or lease are personal property.~~ **Improvements or Fixtures.** Improvements or fixtures to real property include that property that meets all three of the following criteria: (7-1-93)()

a. Property which is physically attached to the land or other improvements affixed to the land in such a manner that it may not be removed without materially damaging the real property or is of such a nature that it would normally be expected to be sold together with the land. ()

b. Property which increases the market value of the land or increases the ability of the possessor of the land to use it more productively. ()

c. Property which increases the market value or productivity of the land on a relatively permanent basis. (7-1-93)()

04. ~~Furniture, Fixtures, Libraries, Art, and Coin Collections.~~ ~~Trade articles used commercially for convenience, decoration, service, or storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease are personal property.~~ **Three Factor Test.** To clarify the definition in paragraph 03 above, a three factor test shall be applied to determine whether a particular article has become an improvement or fixture to real property. To be considered an improvement or fixture to real property a particular article must meet each of these three tests. The three test to be applied are: ()

a. Annexation to the real property, either actual or constructive. ()

b. Adoption or application to the use or purpose to which that part of the real property to which it is connected is suitable. ()

c. Intention to make the article a permanent addition to the real property. (7-1-93)()

05. ~~Recreational Vehicles.~~ ~~Unlicensed recreational vehicles are personal property.~~ **Intent.** For purposes of determining whether there is intent to make the article a permanent addition to the real property the relevant inquiry is whether the objective circumstances manifest an intent that the item is to be made a permanent addition to the real property. The subjective intent of taxpayers and others is not the controlling factor. In evaluating the objective intent the following factors shall be considered: (7-1-93)()

a. The nature of the article. ()

b. The manner of annexation to the real property. ()

c. The injury to the real property, if any, resulting from the removal of the article. ()

d. The completeness with which the article is integrated with the use to which the real property is being put. ()

- e. The relation which the annexer has with the real property as licensee, tenant at will for years or for life or fee owner. ()
- f. The relation which the annexer has with the article such as owner, bailee or converter. ()
- g. The local custom respecting treating such an article as personal property or an improvement or fixture to real property. ()
- h. The time, place and degree of social, economic and cultural development (e.g., a luxury in one generation is a necessity in another). ()
- i. All other relevant facts surrounding the article, the annexation and the real property. ()
- 06.** ~~*Boats. Unlicensed watercraft are personal property.*~~ **Operating Property.** Operating property will be characterized as personal or real based upon the criteria stated in this rule. (7-1-93)()
- ~~**07.** *Net Profit of Mines. That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses as defined in Section 63-2802, Idaho Code, or by State Tax Commission rule is personal property.*~~ (4-5-00)()
- ~~**08.** *Signs and Signboards. Signs and signboards, their bases and supports are personal property.*~~ (7-1-93)()
- 097.** **Leased Personal Property.** The listing of leased personal property shall also include the name and address of the other party to the lease and the terms of the lease. (4-5-00)
- 08.** **Guidelines.** The following are guidelines for applying the above rules. The decision of the assessing authority as to whether property is real or personal property shall be presumed correct. The burden for overcoming the assessing authority's decision is by a preponderance of the evidence. These guidelines are not intended to be all inclusive. ()
- a. Equities in land purchased from the state under contract are personal property. ()
- b. Machinery, tools and equipment are not real property unless they meet the definition of improvement or fixture. ()
- c. Furniture, trade fixtures, library collections, art work and collectibles, and all such items held for rent or lease are personal property. ()
- d. Vehicles, aircraft and mobile equipment are personal property. ()
- e. Signs and signboards, their bases and supports are personal property. ()
- f. Manufactured housing is subject to the provision of Section 63-304, Idaho Code. ()
- g. Vault doors, drive in windows, automatic tellers and night depositories are real property when owned by the owner of the building. ()
- h. Air conditioning: ()
- i. Building air conditioning, including refrigeration equipment, primarily used for the comfort of occupants is real property: ()
- ii. Window and package unit air conditioners are personal property; and ()
- iii. Air conditioners for special processes to maintain controlled temperature and humidity and used

primarily for purposes other than the comfort of occupants including air conditioning for electric rooms and vaults are personal property. ()

- i.** Air handling equipment is personal property. ()
- j.** Aluminum pot lines are personal property. ()
- k.** Ash handling system, pit and superstructure (See Boilers). ()
- l.** Asphalt mixing plant is personal property. ()
- m.** Auto-Call and telephone system is personal property. ()
- n.** Automobile is personal property. ()
- o.** Beneficiation equipment, foundations and all machinery required to process ore including crushers, grinders and floatation equipment is personal property. ()
- p.** Boilers including stacks and superstructure used primarily for service of real property are real, other boilers including stacks and superstructure are personal property. ()
- q.** Booths for welding are personal property. ()
- r.** Bucket elevators whether open or enclosed and including casing are personal property. ()
- s.** Bulkheads and external walls that enclose additional land area within a building perimeter are real property, other bulkheads and walls are real property if they meet the criteria established in the general rule above. ()
- t.** Buildings including specially constructed buildings are real property. ()
- u.** Cable whether above or below ground for transmission of information, data, power or other services is personal property. ()
- v.** Coal handling systems (See Boilers). ()
- w.** Cold storage - built-in cold storage rooms within building are real property, cold storage refrigeration equipment is personal property. ()
- x.** Conduit and vaults used in telephonic services when underground are real property. ()
- y.** Control booths are personal property. ()
- z.** Conveyor, conveyor housing, structure, steel foundations that support conveyors or conveyor tunnels that meet the definition above are real property otherwise they are personal property, conveyor units including belt, drives, motors and assets that don't meet the definition of real property above are personal property. ()
- aa.** Coolers -- portable walk-in coolers are personal property. ()
- bb.** Cooling towers the primary use of which is the comfort of occupants within buildings or other real property are real property, other coolers are personal property. ()
- cc.** Cranes are personal property. ()
- dd.** Crane runways including supporting columns or structure whether inside or outside of building that meet the definition of real property above are real property, otherwise they are personal property, crane runways that are bolted to or hung on tresses or can be moved are personal property. ()

- ee.** Dock levelers are personal property. ()
- ff.** Drying rooms that meet the definition above for real property are real property, drying room heating, cooling, environmental control systems, equipment and other assets are personal property. ()
- gg.** Dust catchers are personal property. ()
- hh.** Farm equipment is personal property. ()
- ii.** Fencing whether for security or decorative is real property. ()
- jj.** Fire alarm systems are personal property. ()
- kk.** Fire walls are real property. ()
- ll.** Foundations for machinery and equipment including those made from steel and regardless of how they are attached to the building or other real property are personal property ()
- mm.** Gasoline tanks - see tanks. ()
- nn.** Greenhouse assets that meet the definition of real property are real property, greenhouse benches, heating, cooling, watering and other environmental systems are personal property. ()
- oo.** Gravel plant machinery and equipment personal property. ()
- pp.** Hoist Pits - see pits. ()
- qq.** Houses and sheds that are portable or on skids are personal property. ()
- rr.** Inventory of merchants is personal property. ()
- ss.** Kilns - structures used for lumber drying, concrete block drying and circular down draft (beehive) are real property, kiln systems including heating, drying and other equipment are personal property. ()
- tt.** Laundry steam generating equipment is personal property. ()
- uu.** Lighting - yard lighting is real property, special purpose lighting and illumination equipment is personal property. ()
- vv.** Mixers and mixing houses are personal property. ()
- ww.** Mobile homes are personal property. ()
- xx.** Monorail crane runways are personal property. ()
- yy.** Motors except those that are required for building occupant comfort are personal property. ()
- zz.** Moveable structures are personal property. ()
- aaa.** Net profit of mines which is the amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses as defined in Section 63-2802, Idaho Code, or by State Tax Commission rule is personal property. ()
- bbb.** Ore bridge foundations are real property. ()
- ccc.** Ovens used for processing are personal property. ()

- ddd.** Pits and ponds used for processing are personal property. ()
- eee.** Process piping including foundations and bridges whether above or below ground are personal property. ()
- fff.** Pumps and motors are personal. ()
- ggg.** Pump house including the sub-structure are real property. ()
- hhh.** Racks and shelving, portable or removable are personal property. ()
- iii.** Railroad fences, snowsheds and signs - Personal. ()
- iii.** Railroad stations and office buildings - Real. ()
- kkk.** Railroad roadway buildings and miscellaneous structures - Real. ()
- lll.** Railroad shops and engine houses - Real. ()
- mmm.** Railroad storage warehouses - Real. ()
- nnn.** Railroad water stations and fuel stations, buildings - Real. ()
- ooo.** Railroad water stations and fuel stations, equipment - Personal. ()
- ppp.** Railroad communication systems, signals and interlockers - Personal. ()
- qqq.** Railroad power transmission systems, roadway machines and shop machinery - Personal. ()
- rrr.** Reservations and Easements including reserved mineral rights and divided ownership of property rights - personal (Easements convey use but not ownership). ()
- sss.** Railroad rolling stock, including locomotives, freight cars, and work equipment - Personal. ()
- ttt.** Construction work in progress - Classification based on type of property. ()
- uuu.** Ready-mix concrete plant is personal property. ()
- vvv.** Recreational vehicles are personal property. ()
- www.** Refrigeration and freezer equipment, but see air conditioning, is personal property. ()
- xxx.** Sanitary systems are real property. ()
- yyy.** Scale houses are real. ()
- zzz.** Scales - truck or railroad scales including pit are real property, Dormat scales are personal property. ()
- aaaa.** Silos - storage silos are real property unless portable or movable, silos used during a manufacturing process are personal property. ()
- bbbb.** Spray Ponds - masonry reservoir is real property, spray pond piping and equipment is personal property. ()
- cccc.** Sprinkler system used for crop or landscape irrigation is real property if buried, above ground

irrigations systems are personal property. ()

dddd. Stacks and chimneys used for heating boilers used for building occupant comfort are real property, stack and chimney used for other equipment are personal property. ()

eeee. Stone crushing plant - machinery and equipment is personal property. ()

ffff. Storage bins, small portable are personal property. ()

gggg. Storage facilities meeting the definition of real property above are real property, concrete, masonry or wood process storage towers and facilities are personal property. ()

hhhh. Substation building is real property. ()

iiii. Substation switchyard and control machinery and equipment is personal property. ()

jjii. Tanks - tanks used primarily for storage of finished product whether above or below ground are real property unless they are portable or movable, tanks used primarily as part of a manufacturing process including for process inventory storage are personal property, underground gasoline tanks at service stations are personal property. ()

kkkk. Tipple structure is personal property. ()

llll. Tunnels for transportation of moving vehicles are real property, tunnels for waste heat, freezing, processing or manufacturing activities are real property. Equipment in tunnels is personal property. ()

mmmm. Unit heaters are real property. ()

nnnn. Unloader runways are real property. ()

oooo. Utility meters and auxiliary equipment are personal property. ()

pppp. Ventilation used primarily for building occupant comfort is real property, ventilation system, machinery and equipment used primarily for manufacturing or processing purposes is personal property. ()

qqqq. Water treatment and softening plant, water pumping buildings and structures are real property, water treatment and softening equipment is personal property, water lines used primarily for potable and sanitary water are real property, water lines for processing whether above or below ground are personal property, water pumps and motors are personal property. ()

rrrr. Wells, pumps, motors and equipment are personal property. ()

ssss. Wiring - power wiring integral to machinery, equipment or for processing is personal property. ()

tttt. Mobile homes are personal property. ()

(BREAK IN CONTINUITY OF SECTIONS)

~~206.—209. (RESERVED).~~

~~210. REAL PROPERTY DEFINED (RULE 210).
Sections 63-201, 63-304, and 63-309, Idaho Code.~~

~~(4-5-00)~~

~~01. Real Property. Land and whatever is permanently upon or affixed to the land, except for the~~

~~provisions defined in Section 63-309, Idaho Code. (4-5-00)~~

~~**02. Improvements.** Improvements are valuable additions to land, except for the provisions defined in Section 63-309, Idaho Code. (4-5-00)~~

~~**03. Manufactured Housing.** Manufactured housing subject to the provision of Section 63-304, Idaho Code, is real property. (4-5-00)~~

~~**04. Affixed Property and Other Improvements.** Property affixed to the land in such a manner that it may not be removed without materially damaging the land or attached improvements is real property. Real property includes appurtenances that would normally be expected to be sold together with the land. (4-5-00)~~

~~**a.** Equipment attached only by plug in electrical connection is not affixed. (4-5-00)~~

~~**b.** Equipment permanently situated and adapted to use in one place is affixed. (4-5-00)~~

~~**c.** Vault doors, drive-in windows, automatic tellers, and night depositories are affixed when owned by the owner of the building. (4-5-00)~~

~~2106. -- 216. (RESERVED).~~

217. RULES PERTAINING TO MARKET VALUE DUTY OF COUNTY ASSESSORS (RULE 217).
Section 63-208, Idaho Code. (3-30-07)

01. Market Value Definition. Market value is the most probable amount of United States dollars or equivalent for which a property would exchange hands between a knowledgeable and willing seller, under no compulsion to sell, and an informed, capable buyer, under no compulsion to buy, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment. (7-1-97)

a. The assessor shall value the full market value of the entire fee simple interest of property for taxation. Statutory exemptions shall be subtracted. (7-1-97)

b. Personal property shall be valued at retail level. (7-1-93)

02. Appraisal Approaches. Three (3) approaches to value will be considered on all property. The three (3) approaches to market value are: (3-30-07)

a. The sales comparison approach; (3-30-01)

b. The cost approach; and (3-30-01)

c. The income approach. (3-30-01)

03. Appraisal Procedures. Market value for assessment purposes shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. (3-30-07)

A. Use Of Market Rents In Income approach. The appraisal procedures, methods, and techniques using the income approach to determine the market value for assessment purposes of income producing properties, except those described in Paragraph 217.03.b. of this rule, must use market rent, not contract rent. ~~(3-30-07)(____)~~

b. Exception to Use of Market Rents in Income Approach. When considering all three approaches to value, the appraisal procedures, methods, and techniques, using the income approach to determine the market value for assessment purposes of low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Service Code, must use actual rent plus the monetary benefit of any income tax credits. ~~(3-30-07)(____)~~

c. Valuation Example Relating to the Income Approach for Certain Low-income Housing. The following example shows a methodology to calculate the value for the monetary benefit of the income tax credits to be added to the income approach value using actual rents for low-income housing properties receiving income tax credits under Section 42 of the Internal Revenue Code. ()

Example: Value of Income Tax Credits Discounted Cash Flow Ten-Year Model				
*Discount Rate = 5.59%		Growth Rate = 0.00%	Total Rate = 5.59%	
Year	Period	*Tax Credit Income	*Factor	Present Value
2007	0	\$270.997	1.000000	\$270.997
2008	1	\$270.997	0.947059	\$256.650
2009	2	\$270.997	0.896921	\$243.063
2010	3	\$270.997	0.849438	\$230.195
2011	4	\$270.997	0.804468	\$218.008
2012	5	\$270.997	0.761879	\$206.467
2013	6	\$270.997	0.721545	\$195.536
2014	7	\$270.997	0.683346	\$185.185
2015	8	\$270.997	0.647169	\$175.381
2016	9	\$270.997	0.612907	\$166.096
*Total Present Value of Tax Credits				\$2,147,579
*Notes:				
Discount Rate is the rate for ten-year Treasury Bills in December plus 1% for risk rate.				
Tax Credit Income is the actual monetary benefit of the income tax credits received by the property owner.				
Factor is interpolated from the Present Value of 1 Table for 5.5% and 5.75%.				
Total Present Value of Tax Credits is the total present value of the monetary benefit of the income tax credits to be added to the income approach value for the property.				

()

04. Cross Reference. For clarification of the income to include when using the income approach to value low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Service Code, see Brandon Bay, Ltd. Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (2006). For additional information relating to the income and expense data to use when applying the income approach see Paragraph 314.02.b. of these rules. (3-30-07)()

(BREAK IN CONTINUITY OF SECTIONS)

314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (RULE 314).
Sections 63-314 and 63-316, Idaho Code. (3-30-01)

01. Definitions. (7-1-99)

a. Continuing Program of Valuation. “Continuing program of valuation” means the program by which each assessor completes the assessment of all taxable properties each year. (7-1-99)

b. Field Inspection. The “field inspection” shall include an observation of the physical attributes of all structures which significantly contribute to the property value, the visible land amenities, and a notation of any other factors which may influence the market value of any improvements. (7-1-99)

c. Index. “Index” refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics. (7-1-99)

d. Prediction of Market Value. As used in Section 63-314, Idaho Code, “prediction of market value” means an estimate of market value. (7-1-99)

e. Category to be Assessed at Current Market Value. The level of assessment of each category will be considered to be current market value unless there is reasonable statistical certainty that the category is not equalized pursuant to Section 63-109, Idaho Code, and Rule 131. (3-30-01)

02. Plan for Continuing Program of Valuation. The plan for continuing program of valuation shall include: (7-1-99)

a. General Contents. A parcel count by category, the number of parcels to be appraised each year, maps that show each of the market areas, an analysis of staff requirements, a budget analysis that provides adequate funding for labor costs, capital and supply costs, travel and education costs and the method of program evaluation. (3-30-01)

b. Market Data Bank. A market data bank including collection, verification and analysis of sales, income and expense data, building cost information, and application of this information to estimate market value. To mail assessment notices by the first Monday in June as required by Section 63-308, Idaho Code, assessors should include income and expense data submitted by property owners by the first Monday in April. Income and expense data for low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Code includes actual rents, the monetary benefit of income tax credits, and expenses. (7-1-99)(____)

c. Maps. Maps prepared in accordance with Section 63-209, Idaho Code, which identify characteristics of each geographic area. (7-1-99)

d. Property Record. A property record for each parcel, complete with the property characteristics necessary for an estimate of the current market value. (7-1-99)

03. Date Plan Is Submitted. The plan must be submitted to the State Tax Commission on or before the first Monday of February in 1997, and every fifth year thereafter. (7-1-99)

04. Request for Extension. As provided in Section 63-314, Idaho Code, a county may request an extension to the current five (5) year county valuation plan. (3-30-01)

a. Amended Plan. Any request for an extension must include an amended plan incorporating an inventory of the parcels to be appraised during the period of the approved extension. This inventory shall constitute the schedule of required appraisals for the initial year or years of the subsequent five (5) year valuation program. Parcels appraised during the extension will be considered appraised during both the current and subsequent five (5) year plan valuation program periods, maintaining the same five (5) year cycle for all counties. (3-30-01)

b. Approval of the Extension and Amended Plan. A county shall be notified of the State Tax Commission's decision regarding the granting of an extension as provided in Section 63-314, Idaho Code, within thirty (30) days of receipt of the written request for the extension when accompanied by an amended plan. (3-30-01)

c. Approval of the Amended Plan. The State Tax Commission's approval of any extension shall specify timing and nature of progress reports. (3-30-01)

d. Voiding of the Extension. The State Tax Commission can void an extension unilaterally. (3-30-01)

05. Testing for Current Market Value. Assessed values shall be tested annually by the State Tax Commission as described in Section 63-109, Idaho Code, and Rule 131 of these rules to determine whether the level of assessment reflects “current market value.” (3-30-01)

06. Cross Reference. For clarification on tax credits when valuing low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Code, see the case of *Brandon Bay, Ltd. Partnership v. Payette County*, 142 Idaho 681, 132 P.3d 438 (2006). For an example of the methodology to use to include the value of the income tax credits when valuing low income housing properties receiving tax credits under Section 42 of the Internal Revenue Code, see Paragraph 217.03.c. of these rules. (____)

315. USE OF RATIO STUDY TO EQUALIZE - BOISE SCHOOL DISTRICTS (RULE 315). Section 63-315, Idaho Code. (3-30-07)

01. Procedures for Boise School District Ratio Studies. The ratio study conducted by the State Tax Commission to comply with the requirements of Section 63-315, Idaho Code, shall be conducted in accordance with the “Standard on Ratio Studies” referenced in Rule 006 of these rules. The following specific procedures will be used. (4-11-06)(____)

a. Information on property sales, which meet the requirements of arm’s length and market value sales, will be obtained and assembled into samples representing various primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules, within designations defined in Subsection 315.02 of this rule in ~~each the Boise School District~~. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within ~~each the Boise School District~~ between October 1 of the year preceding the year for which adjusted market value is to be computed and September 30 of the year for which adjusted market value is to be computed. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which adjusted market value is to be computed, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. (3-30-07)(____)

b. A ratio will be determined for each sale by dividing the market value for assessment purposes of the property by the adjusted sale price or appraised value. (7-1-98)

c. A statistical analysis is to be conducted for the sales and any appraisals in each property designation described in Subsection 315.02 of this rule in ~~each the Boise School District~~ and appropriate measures of central tendency, uniformity, reliability, and normality computed. (3-30-07)(____)

d. With the exception of any property designations with extended time frames or added appraisals, if fewer than five (5) sales and appraisals are available, no adjustment to the taxable value of the designation will be made. (7-1-98)

e. If there are five (5) or more sales and appraisals and it is determined with reasonable statistical certainty that the property designation is not already at market value for assessment purposes, an adjusted market value will be computed for the ~~Boise School District~~ by dividing the taxable value for the year for which adjusted market value is to be determined by the appropriate ratio derived from the ratio study. The appropriate ratio to be used shall be the weighted mean ratio calculated from the sample for each designation, unless it can be clearly demonstrated that this statistic has been distorted by nonrepresentative ratios. In this case the median may be substituted. (3-30-07)(____)

f. Within ~~each the Boise School District~~, adjusted market value or taxable value for each primary and each applicable secondary category of real, personal and operating property will be summed to produce the total adjusted market value for the ~~Boise School District~~. The ~~Boise School District~~ taxable value will then be divided by this adjusted market value to produce the overall ratio of assessment in ~~each the Boise School District~~. Statewide totals are to be calculated by compiling county totals. (3-30-07)(____)

g. Urban renewal increment values will not be included in the taxable value or the adjusted market value for ~~any the Boise School District~~. (7-1-98)(____)

h. “Reasonable statistical certainty,” that the property designation in question is not at market value for assessment purposes, is required. Such certainty is tested using ninety percent (90%) confidence intervals about the weighted mean or median ratios. If the appropriate confidence interval includes ninety-five percent (95%) or one hundred five percent (105%), there is not “reasonable statistical certainty” that the property designation is not at market value for assessment purposes. (3-30-01)

i. Primary and secondary categories subject to adjustment following the procedure outlined in this rule and ratio study designations from which measures of central tendency used for adjustments will be derived are:

Secondary Categories	Primary Categories	Ratio Study Designations
12, 15, 18, or 20	Vacant Residential Land	Residential
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property	Residential
47, 49, or 65	Manufactured Home on Leased Land	Residential
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land	Commercial
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51	Improved Commercial or Industrial Property	Commercial

(3-30-07)

j. For all secondary categories, described in Rule 510, 511, or 512 of these rules but not contained in the list in Paragraph 315.01.i. of this rule, adjusted market value will equal taxable value. (3-30-07)

k. “Appraisal” or “appraised value” refers to any State Tax Commission provided independently conducted property appraisal. (7-1-98)

02. Use of Property Designations. In computing the ratio for ~~each the Boise School District~~, the State Tax Commission will designate property as residential or commercial and shall assign appropriate primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules, to these designations as shown in Paragraph 315.01.i. of this rule. For ~~each the Boise School District~~, adjusted market value shall be computed by dividing the appropriate ratio ascertained for each of these designations into the sum of the taxable values for each primary and secondary category assigned to a designation. Except as provided in Subsection 315.06 of this rule, for the taxable value in any secondary category to be included in said sum, at least one (1) observation (sale or appraisal) from that secondary category must be present in the ratio study. If the ratio for any given designation in ~~a the Boise School District~~ indicates that the market value for assessment purposes cannot be determined with reasonable statistical certainty to differ from statutorily required market value, the taxable value shown on the ~~Boise School District~~ abstract(s) required pursuant to Subsection 315.04 of this rule for each of the secondary categories included in that designation shall be the adjusted market value for said designation for said school district. (~~3-30-07~~)()

03. Assessor to Identify Boise School Districts. Each county assessor will ~~provide to~~ identify for the State Tax Commission ~~the school district in~~ which ~~each~~ sales submitted for the ratio study ~~is~~ are located ~~within the Boise School District~~. (~~7-1-98~~)()

04. Abstracts of Value by for the Boise School District. ~~Within each county,~~ Each applicable county auditor shall provide to the State Tax Commission abstracts of the taxable value of all property within the portion of ~~each the Boise School District~~ in that county. These abstracts shall be submitted in the same manner and at the same time as provided for county abstracts of value. (~~3-30-07~~)()

05. Urban Renewal Increment and Exemption to be Subtracted. The taxable value of each primary

or secondary category within ~~each~~ the Boise School District shall not include the value that exceeds the value on the base assessment roll in any urban renewal district pursuant to Chapter 29, Title 50, Idaho Code, and shall not include the value of any exemption pursuant to Sections 63-602G, 63-602K, 63-602P, 63-602X, 63-602AA, 63-602BB, 63-602CC, 63-602DD, 63-602GG, 63-602HH, 63-602II, 63-606A, or 63-3029B, Idaho Code.

~~(3-30-07)~~(____)

06. Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment shall be applied to any assessed value in secondary category 10, provided there is at least one (1) observation (sale) of property identified in either secondary category 12 or 15. Such adjustment shall also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. (3-30-07)

07. Certification of Values. The values required to be certified to the county clerk by the first Monday in April each year under Section 63-315, Idaho Code, shall be published on the State Tax Commission's web site or provided in an alternate format on request by the first Monday in April each year to satisfy this required certification. (3-30-07)

08. Cross References. The primary categories are described in Subsections 130.02 through 130.06 of these Rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

404. OPERATOR'S STATEMENT -- CONTENTS (RULE 404).

Sections 63-401 and 63-404, Idaho Code.

(5-3-03)

01. Operator's Statement. In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method. (7-1-99)

02. Tax Code Area Maps. By March 1 of each year, the State Tax Commission shall furnish to all entities having operating property within the state of Idaho, except private railcar fleets, a list of all changes in tax code area boundary lines. In case the State Tax Commission receives corrections to any tax code area boundaries, these changes must be furnished by March 15. Every day that the tax code area map deadline is extended beyond March 1 allows for an automatic operator's statement extension equal to the delay. The reporting entity shall review the list of changes to identify any tax code areas, within which any of the entity's operating property is located. The reporting entity shall report, under Subsection 404.01 of this rule based on these identified tax code areas. The State Tax Commission shall provide the tax code areas maps to the reporting entity as provided for in Rule 225 of these rules. (5-3-03)

03. Reporting of Mileage. The following procedures apply for reporting mileage. (7-1-99)

a. Railroad Track Mileage. The railroad track mileage shall be reported by the name of the main line and branch lines with the track mileage for the main line and branch lines reported as Main Track Miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., shall be reported as Secondary Track Miles. (5-3-03)

b. Electric Power Line Mileage. The electric power companies shall report electric power line mileage by transmission and distribution lines. The transmission lines are the lines at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; lines between a generating or receiving point and the entrance to a distribution center or wholesale point; and lines whose primary purpose is to augment, integrate, or tie together the sources of power supply. The distribution lines are the lines between the primary source of supply and of delivery to customers, which are not includible in transmission lines.

Cooperative electrical associations may include lines designed to accommodate thirty-four thousand five hundred (34,500) volts or more as transmission or distribution lines. Transmission or distribution lines shall be reported by single linear wire mile. (5-3-03)

c. Telephone Wire Mileage. All telephone wire mileage shall be reported on a single linear wire mile basis, and include any ground wires. (5-3-03)

d. Natural Gas and Water Distribution Pipeline Mileage. All natural gas and water distribution companies shall report pipeline miles on a three (3) inch comparison basis. For example, a company with five (5) miles of six (6) inch pipe will report ten (10) pipeline miles: five (5) times six (6) divided by three (3) equals ten (10) miles. (5-3-03)

e. Transmission Pipeline Mileage. All transmission pipeline mileage is reported in actual pipe sizes, without adjustment, because the pipe is normally uniform in size over long distances companies shall report pipeline miles on a one-inch (1") comparison basis. (5-3-03)()

04. **Situs Property.** Situs property includes microwave stations, and radio relay towers, and thermal electric generation This property also includes facilities, used for and in conjunction with thermal generation of electricity, constructed after January 1, 2004, and located in or within five (5) miles of an incorporated city. This property is not apportioned on the basis of mileage. The investment in this property shall be reported in the tax code area(s), within which it is located. (4-6-05)()

05. **Record of Property Ownership.** The following procedures apply for maintaining records of operating property ownership. (7-1-99)

a. STC Form R. A record of each property owned, leased, or otherwise operated by each railroad, private railcar fleet or public utility shall be maintained by the State Tax Commission, the appropriate railroad, private railcar fleet or public utility, and the appropriate county assessor's office. Each record shall be maintained on a form identified as STC Form R. The State Tax Commission shall send a copy of each STC Form R to the appropriate company and the appropriate county assessor's office. (7-1-99)

b. Identification of Operating Property and Nonoperating Property. On the STC Form R, the State Tax Commission shall identify which property is operating property and which property is nonoperating property. (5-3-03)

c. Filing of Property Ownership by Railroad Companies. Each railroad company shall file the original railroad right-of-way maps with the State Tax Commission. Each railroad shall file an STC Form R, only, for property that is acquired, leased, or transferred between operating and nonoperating status, or sold during the prior year. (7-1-99)

06. **Filing Date for Operator's Statement.** By April 30 each year, each railroad, private railcar fleet, and or public utility operating in Idaho shall file information pertinent to the entity's ownership and operation with the State Tax Commission. This information must be reliable for preparing an estimate of market value. For each entity submitting a written request for an extension on or before April 30, the State Tax Commission may grant an extension of the filing date until May 31. An automatic extension beyond April 30 may be granted as set out in Subsection 404.02 of this rule. (4-6-05)

07. **Cross Reference.** For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules. For valuation, allocation, and apportionment information, see Section 63-405, Idaho Code, and Rule 405 of these rules. ()

405. **ASSESSMENT OF OPERATING PROPERTY (RULE 405).**
Section 63-405, Idaho Code. ()

01. **The Unit Method.** The unit method of valuation is preferred for valuing a railroad or public utility when the individual assets function collectively, are operated under one ownership and one management, are interdependent, and the property would be expected to trade in the marketplace as a unit. Under the unit method, the

value of the tangible and intangible property is equal to the value of the going concern. The market value of the unit shall be referred to as the system value. For interstate property, allocation factors shall be used to determine what part of the system value is in Idaho. (7-1-99)

02. Identifying the Unit to be Appraised. The unit includes all property used or useful to the operation of the system, property owned, used or leased by the business and the leased fee and leasehold interests. ~~Assess All title and interest in unit property shall be assessed to the owner, lessee or operating company. See Rule 615 of these rules for treatment of intangibles.~~ (7-1-99)(____)

03. Appraisal Approaches. The three (3) approaches to value may be considered for all property. (7-1-99)

04. Appraisal Procedures. Market value shall be determined through procedures, methods, and techniques accepted by nationally recognized appraisal and valuation organizations. For operating property, the direct capitalization techniques or derivatives thereof shall not be used in estimating value. (7-1-99)

05. The Cost Approach. For operating property, the appraiser may consider replacement, reproduction, original or historical cost. (7-1-99)

a. Contributions in aid of construction. Contributions in aid of construction are valued at zero in the cost approach. (7-1-99)

b. Construction work in progress. Construction work in progress may be considered in the cost approach. (7-1-99)

c. Obsolescence. The appraiser shall attempt to measure obsolescence, if any exists. If obsolescence is found to exist, it may be considered in the cost approach. (7-1-99)

06. The Income Approach. For operating property, the income approach is based on the premise that value can be represented by the present worth of future benefits derived from the ownership, use or operation of the unit. The appraiser shall consider yield capitalization in processing the income approach. (7-1-99)

07. The Market Approach. In the market approach for operating property, the appraiser shall consider the sales comparison approach or the stock and debt approach. (7-1-99)

08. Reconciliation. Reconciliation, also called correlation, is an opinion regarding the weight that should be placed on each approach. The appropriate weight to be given each indicator is based on the appraiser's opinion of the inherent strengths and weaknesses of each approach and the data utilized. The appraisal report shall disclose the weight given to the indicators. (7-1-99)

09. Allocation. ~~Factors should not~~ Use readily available data from existing records to calculate the factors that are multiplied by the correlated system value to allocate that value to Idaho. ~~Factors themselves should not be an allocation.~~ (7-1-99)(____)

10. Situs Property Apportionment. For situs property, as described in Subsection 404.04 of these rules, apportionment is based on physical location meaning the taxable value shall not be apportioned based on mileage but only to the tax code area(s) within which said property is situs or physically located. (____)

11. Cross Reference. For reporting information, see Section 63-404, Idaho Code, and Rule 404 of these rules. For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules. (____)

(BREAK IN CONTINUITY OF SECTIONS)

415. APPORTIONMENT OF RAILCAR FLEET'S ASSESSED VALUES WITHIN THE STATE (RULE 415).

Section 63-411, Idaho Code. ()

01. Private Railcar Fleet Apportionment. Railroad track miles shall be used for the apportionment of each private railcar fleet's assessed value when the value within Idaho equals five hundred thousand dollars (\$500,000) or more. The Idaho value of each private railcar fleet shall be multiplied by a ratio of this private railcar fleet's mileage for each railroad to this private railcar fleet's total mileage in Idaho and divided by the in service main track mileage of that particular railroad, to obtain a rate per mile. This rate per mile is multiplied by the in service main track mileage in each county and tax code area to calculate the apportioned value. For the purpose of apportioning value by miles traveled, main track includes branch lines, as well as main lines, but does not include industrial spurs, sidings or passing tracks. (7-1-99)

02. Determination of Average Tax Rate -- Private Railcar Fleets Under Five Hundred Thousand Dollars Assessed Value. For private railcar fleets having an assessed value of less than five hundred thousand dollars (\$500,000), the average tax rate is computed each year by dividing the current taxes for all private railcar fleets with assessed value of five hundred thousand dollars (\$500,000) or more by the current Idaho value of all such fleets. By November 15 of each year, each county treasurer must provide the State Tax Commission with the amount of taxes due from all private railcar fleets in the county. (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

509. CITY, COUNTY, AND SCHOOL DISTRICT ABSTRACTS OF VALUE AND IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES (RULE 509).

Sections 63-105A and 63-509, Idaho Code. (3-30-07)

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Increment Value. Increment value means, as defined in Section 50-2903, Idaho Code, the total value calculated by summing the differences between the current equalized value of each taxable property in the revenue allocation area and that property's current base value on the base assessment roll, provided such difference is positive. (3-30-07)

b. Primary Category. Primary category means the categories established and described by Subsections 130.02 through 130.06 of these rules and used by the State Tax Commission to test for equalization under Section 63-109, Idaho Code. (3-30-07)

c. Secondary Category. Secondary category means the categories established and described by Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the State Tax Commission under Section 63-509, Idaho Code, and this Rule. (3-30-07)

02. Appropriate County and Boise School District Abstracts to Balance. The taxable value of property in each secondary category as shown on the abstracts prepared and submitted under Section 63-509, Idaho Code, shall equal the sum of the taxable value of property in each secondary category as shown on the ~~Boise School District~~ abstracts, required under Rule 315 of these rules, for the portion of ~~each~~ the Boise School District located within ~~each given Ada County and Boise County~~. (3-30-07)()

03. Indicate Increment and Exemption Values. In addition to the value of exemptions required under Section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections, 63-602GG, 63-602HH, 63-602II, 63-606A, and 63-3029B, Idaho Code, shall be indicated and subtracted from the taxable value shown for each secondary category of property on each city, county and school district abstract. (3-30-07)

04. Submittal of Corrections to Erroneous Abstracts or Related Documents. When completing the procedures set forth in Section 63-810, Idaho Code, boards of county commissioners should submit the corrections to the taxable values submitted on the abstracts or related documents under provisions of Section 63-509, Idaho Code, and this rule, no later than when they submit the corrected levies under Section 63-810, Idaho Code. ()

045. Cross Reference. See Rule 115 of these rules for requirements to submit city abstracts. For the descriptions of the primary categories used to test for equalization, see Subsections 130.02 through 130.06 of these rules. For descriptions of secondary categories used to list and report land values, see Rule 510 of these rules, used to list and report the value of improvements, see Rule 511 of these rules, or used to list and report all property values other than that for land or improvements, see Rule 512 of these rules. For information relating to notification of corrections to erroneous levies, see Sections 63-809 and 63-810, Idaho Code, and Rule 809 of these rules. (3-30-07)()

510. SECONDARY CATEGORIES FOR LAND - LISTING AND REPORTING (RULE 510). Section 63-509, Idaho Code. County assessors will use the secondary categories described in the following subsections, indicated by numbers, to list land values on the valuation assessment notices under Sections 63-301 and 63-308, Idaho Code. County assessors will use these secondary categories described in the following subsections, indicated by numbers, and the secondary categories described in the following paragraphs, indicated by letters, to report land values to the State Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. For all of the above listed functions, assign all appropriate secondary land categories to parcels of property put to multiple uses. (3-30-07)()

01. Secondary Category 1 - Irrigated Agricultural Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be capable of and normally producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

02. Secondary Category 2 - Irrigated Grazing Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be used for grazing and not normally capable of producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

03. Secondary Category 3 - Non-Irrigated Agricultural Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This non-irrigated land must be capable of and normally producing harvestable crops without man-made irrigation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

04. Secondary Category 4 - Meadow Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This meadow land must be capable of lush production of grass and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

05. Secondary Category 5 - Dry Grazing Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This land must be capable of supporting grasses and not normally capable of supporting crops on regular rotation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

06. Secondary Category 6 - Productivity Forestland. All land and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(a), Idaho Code, for the current year's assessment roll. This land must be assessed as forest land under the productivity option and may be located inside or outside the boundaries of an incorporated city. Also included is all land assessed under Section 63-1704, Idaho Code. (3-30-07)

07. Secondary Category 7 - Bare Forestland. All land and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(b), Idaho Code, for the current year's assessment roll. This land must be assessed as bare land with the yield tax option and may be located inside or outside the boundaries of an incorporated city. (3-30-07)

08. Secondary Category 8 - Speculative Homesite. No value shall be reported in this category on any abstract submitted to the State Tax Commission after the property roll, subsequent property roll, and missed property roll abstracts have been submitted for calendar year 2005. (3-30-07)

09. Secondary Category 9 - Patented Mineral Land. All land used solely for mines and mining claims and only the part of such land not used for other than mining purposes for the current year's assessment roll. This land may be located inside or outside the boundaries of an incorporated city. See Section 63-2801, Idaho Code. (3-30-07)

10. Secondary Category 10 - Homesite Land. Rural non-subdivided ~~Land~~ being utilized for homesites with secondary categories 1 through 9. Note: This land is always land with improvements located on it since land with no improvements should be in one (1) or more of categories 1 through 9. (~~3-30-07~~)(____)

11. Secondary Category 11 - Recreational Land. Rural land used in conjunction with recreation but not individual homesites. (3-30-07)

a. Secondary Category 11 - Vacant Recreational Land. Vacant rural land used for recreational purposes but not individual homesites or in a properly recorded subdivision. (3-30-07)

b. Secondary Category 11 - Improved Recreational Land. Rural land with improvements, including exempt improvements, used for recreational purposes on that land but not individual homesites or in a properly recorded subdivision. (3-30-07)

12. Secondary Category 12 - Rural Residential Tracts. Rural residential land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 12 - Vacant Rural Residential Tracts. Vacant rural land used for residential purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 12 - Improved Rural Residential Tracts. Rural land with improvements, including exempt improvements, used for residential purposes on that land but not in a properly recorded subdivision. (3-30-07)

13. Secondary Category 13 - Rural Commercial Tracts. Rural commercial land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 13 - Vacant Rural Commercial Tracts. Vacant rural land used for commercial

purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 13 - Improved Rural Commercial Tracts. Rural land with improvements, including exempt improvements, used for commercial purposes on that land but not in a properly recorded subdivision. (3-30-07)

14. Secondary Category 14 - Rural Industrial Tracts. Rural industrial land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 14 - Vacant Rural Industrial Tracts. Vacant rural land used for industrial purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 14 - Improved Rural Industrial Tracts. Rural land with improvements, including exempt improvements, used for industrial purposes on that land but not in a properly recorded subdivision. (3-30-07)

15. Secondary Category 15 - Rural Residential Subdivisions. Rural residential land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 15 - Vacant Rural Residential Subdivisions. Vacant rural land used for residential purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 15 - Improved Rural Residential Subdivisions. Rural land with improvements, including exempt improvements, used for residential purposes on that land and in a properly recorded subdivision. Also use this category for rural homesites within subdivisions when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code. ~~(3-30-07)~~()

16. Secondary Category 16 - Rural Commercial Subdivisions. Rural commercial land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 16 - Vacant Rural Commercial Subdivisions. Vacant rural land used for commercial purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 16 - Improved Rural Commercial Subdivisions. Rural land with improvements, including exempt improvements, used for commercial purposes on that land and in a properly recorded subdivision. (3-30-07)

17. Secondary Category 17 - Rural Industrial Subdivisions. Rural industrial land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 17 - Vacant Rural Industrial Subdivisions. Vacant rural land used for industrial purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 17 - Improved Rural Industrial Subdivisions. Rural land with improvements, including exempt improvements, used for industrial purposes on that land and in a properly recorded subdivision. (3-30-07)

18. Secondary Category 18 - Other Land. Land not compatible with other secondary categories. (3-30-07)

a. Secondary Category 18 - Vacant Other Land. Vacant land not compatible with other secondary categories. (3-30-07)

b. Secondary Category 18 - Improved Other Land. Land with improvements, including exempt improvements, on that land but not compatible with other secondary categories. (3-30-07)

19. Secondary Category 19 - Waste. Public Rights-of-Way includes roads, ditches, and canals. Use this secondary category to account for total acres of land ownership. Only list acres, not value, in this secondary category on the abstract. (3-30-07)

20. Secondary Category 20 - Residential Lots or Acreages. Land used for residential purposes and inside city limits. (3-30-07)

a. Secondary Category 20 - Vacant Residential Lots Or Acreages. Vacant land used for residential purposes and inside city limits. (3-30-07)

b. Secondary Category 20 - Improved Residential Lots Or Acreages. Land with improvements, including exempt improvements, used for residential purposes on that land and inside city limits. Also use this category for urban homesites when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code. (~~3-30-07~~)(____)

21. Secondary Category 21 - Commercial Lots or Acreages. Land used for commercial purposes and inside city limits. (3-30-07)

a. Secondary Category 21 - Vacant Commercial Lots Or Acreages. Vacant land used for commercial purposes and inside city limits. (3-30-07)

b. Secondary Category 21 - Improved Commercial Lots Or Acreages. Land with improvements, including exempt improvements, used for commercial purposes on that land and inside city limits. (3-30-07)

22. Secondary Category 22 - Industrial Lots or Acreages. Land used for industrial purposes and inside city limits. (3-30-07)

a. Secondary Category 22 - Vacant Industrial Lots Or Acreages. Vacant land used for industrial purposes and inside city limits. (3-30-07)

b. Secondary Category 22 - Improved Industrial Lots Or Acreages. Land with improvements, including exempt improvements, used for industrial purposes on that land and inside city limits. (3-30-07)

23. Secondary Category 25 - Common Area Vacant Land. Common area vacant land not included in individual property assessments. (3-30-07)

24. Secondary Category 45 - Utility System Vacant Land. Vacant land used for locally assessed utility systems not under the jurisdiction of the State Tax Commission for appraisal. (3-30-07)

25. Secondary Category 57 - Equities In Vacant Land Purchased From the State. For identification purposes under Section 63-211, Idaho Code, vacant land purchased from the state under contract. (3-30-07)

26. Secondary Category 81 - Exempt Land. Category 81 is for county use to keep an inventory, including acreage, of exempt land. (3-30-07)

27. Cross Reference. For descriptions of secondary categories used to list values for improvements, see Rule 511 of these rules, or used to list property values other than that for land or improvements, see Rule 512 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules. (3-30-07)

511. SECONDARY CATEGORIES FOR IMPROVEMENTS - LISTING AND REPORTING (RULE 511).

Section 63-509, Idaho Code. County assessors will use the following secondary categories to list improved property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and to report improved property values to the State Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. For all of the above listed functions, assign all appropriate secondary improvement categories to parcels

of property put to multiple uses.

~~(3-30-07)~~()

01. Secondary Category 25 - Common Area Land and Improvements. Common area land and improvements on that land not included in individual property assessments. (3-30-07)

02. Secondary Category 26 - Residential Condominiums. Land and improvements included in individual assessments of condominiums or townhouses and used for residential purposes. (3-30-07)

03. Secondary Category 27 - Commercial or Industrial Condominiums. Land and improvements included in individual assessments of condominiums and used for commercial or industrial purposes. (3-30-07)

04. Secondary Category 30 - Improvements. Improvements, other than residential, located on secondary category 20. (3-30-07)

05. Secondary Category 31 - Improvements. Improvements used for residential purposes and located on secondary category 10. (3-30-07)

06. Secondary Category 32 - Improvements. Improvements, other than residential, located on secondary categories 1 through 12 and 15. (3-30-07)

07. Secondary Category 33 - Improvements. Improvements used in conjunction with recreation but not associated with homesites and located on secondary category 11. (3-30-07)

08. Secondary Category 34 - Improvements. Improvements used for residential purposes and located on secondary category 12. (3-30-07)

09. Secondary Category 35 - Improvements. Improvements used for commercial purposes and located on secondary category 13. (3-30-07)

10. Secondary Category 36 - Improvements. Improvements used for industrial purposes and located on secondary category 14. (3-30-07)

11. Secondary Category 37 - Improvements. Improvements used for residential purposes and located on secondary category 15. (3-30-07)

12. Secondary Category 38 - Improvements. Improvements used for commercial purposes and located on secondary category 16. (3-30-07)

13. Secondary Category 39 - Improvements. Improvements used for industrial purposes and located on secondary category 17. (3-30-07)

14. Secondary Category 40 - Improvements. Improvements located on secondary category 18. (3-30-07)

15. Secondary Category 41 - Improvements. Improvements used for residential purposes and located on secondary category 20. (3-30-07)

16. Secondary Category 42 - Improvements. Improvements used for commercial purposes and located on secondary category 21. (3-30-07)

17. Secondary Category 43 - Improvements. Improvements used for industrial purposes and located on secondary category 22. (3-30-07)

18. Secondary Category 44 - Improvements. Taxable improvements located on otherwise exempt property under the same ownership. No later than January 1, 2008, county assessors will use the appropriate land and improvement secondary categories based on use. (3-30-07)

- 19. Secondary Category 45 - Utility System Land and Improvements.** Locally assessed land and improvements used as utility systems and not under the jurisdiction of the State Tax Commission for appraisal. (3-30-07)
- 20. Secondary Category 46 - Manufactured Housing.** Structures transportable in one (1) or more sections, built on a permanent chassis, for use with or without permanent foundation located on land under the same ownership as the manufactured home but assessed separate from the land. Include any manufactured home located on land under the same ownership as the manufactured home on which a statement of intent to declare as real property has been filed but becomes effective the following year. (3-30-07)
- 21. Secondary Category 47 - Improvements to Manufactured Housing.** Additions not typically moved with manufactured housing. (3-30-07)
- 22. Secondary Category 48 - Manufactured Housing.** Manufactured housing permanently affixed to land under the same ownership as the manufactured home and on which a statement of intent to declare as real property has been filed and has become effective. (3-30-07)
- 23. Secondary Category 49 - Manufactured Housing.** Manufactured housing permanently affixed to leased land and on which a statement of intent to declare as real property has been filed and has become effective. (3-30-07)
- 24. Secondary Category 50 - Residential Improvements on Leased Land.** Improvements used for residential purposes and located on leased land, including railroad rights-of-way under separate ownership, exempt land under separate ownership, or any other land under different ownership than the improvements. No later than January 1, 2008, county assessors will use this secondary category when the improvement is used for residential purposes and discontinue use of secondary categories 60, 61, and 62. (3-30-07)
- 25. Secondary Category 51 - Commercial or Industrial Improvements on Leased Land.** Improvements used for commercial or industrial purposes and located on leased land, including railroad rights-of-way under separate ownership, exempt land under separate ownership, or any other land under different ownership than the improvements. No later than January 1, 2008, county assessors will use this secondary category when the improvement is used for commercial or industrial purposes and discontinue use of secondary categories 60, 61, and 62. (3-30-07)
- 26. Secondary Category 57 - Equities in Land With Improvements Purchased From the State.** Land with the improvements on that land that are purchased from the state under contract. (3-30-07)
- 27. Secondary Category 60 - Improvements on Railroad Rights-of-Way.** Improvements located on railroad rights-of-way under separate ownership. No later than January 1, 2008, county assessors will use secondary category 50 when the improvement is used for residential purposes or will use secondary category 51 when the improvement is used for commercial or industrial purposes. (3-30-07)
- 28. Secondary Category 61 - Improvements by Lessee Other Than Secondary Category 62.** Improvements made by the tenant or lessee to landlord's property. No later than January 1, 2008, county assessors will use secondary category 50 when the improvement is used for residential purposes or will use secondary category 51 when the improvement is used for commercial or industrial purposes. (3-30-07)
- 29. Secondary Category 62 - Improvements on Exempt or Public Land.** Taxable improvements, owned separately from exempt or public land on which they are located. No later than January 1, 2008, county assessors will use secondary category 50 when the improvement is used for residential purposes or will use secondary category 51 when the improvement is used for commercial or industrial purposes. (3-30-07)
- 30. Secondary Category 65 - Manufactured Housing.** Manufactured housing not designated real property and located on exempt, rented or leased land under separate ownership. Include any manufactured home located on exempt, rented or leased land on which a statement of intent to declare as real property has been filed but becomes effective the following year. (3-30-07)

31. **Secondary Category 69 - Recreational Vehicles.** Unlicensed recreational vehicles. (3-30-07)
32. **Secondary Category 81 - Exempt Improvements.** Category 81 is for county use to keep an inventory of exempt improvements. (3-30-07)
33. **Cross Reference.** For descriptions of secondary categories used to list land values, see Rule 510 of these rules, or used to list property values other than that for land or improvements, see Rule 512 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

601. -- 608. (RESERVED).

603. PROPERTY EXEMPT FROM TAXATION – RELIGIOUS CORPORATIONS OR SOCIETIES (RULE 603).

Section 63-602B, Idaho Code. ()

01. Valuing the Taxable Part of Qualifying Property. Under Section 63-602B(2), Idaho Code, a county shall determine the value of the part of the property used or leased for business or commercial purposes by considering the particular facts of each case, examining the amount of time, during the calendar year, the property is used for business or commercial purposes, the percentage of the property used for business or commercial purposes, or a combination thereof. The county may require reporting by the religious corporation or society of any use of the property for business or commercial usage in such form, and by such date, as the county establishes. ()

02. Comparable Valuation Methodology to Partially Exempt Property Under Section 63-602C, Idaho Code. To value the taxable part of any otherwise qualifying property exempt under Section 63-602B, Idaho Code, each county should use comparable methods to those being used to value the taxable part of qualifying exempt property under Section 63-602C, Idaho Code. ()

604. -- 608. (RESERVED).

609. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD (RULE 609).

Sections 63-602G, 63-701, 63-703, and 63-3077, Idaho Code.

(3-30-07)

01. Homestead Exemption. The Homestead Exemption granted in 63-602G, Idaho Code shall also be known as the homeowner's exemption. (3-30-07)

02. Idaho Annual Housing Price Index Change. Annually, the State Tax Commission shall calculate the maximum dollar-value limit for the homeowner's exemption based on the change in the Idaho annual housing price index published by the United States office of federal housing enterprise oversight. The following procedure shall be used: (3-30-07)

a. Step 1. Calculate the average Idaho housing price index of the four (4) most recently available quarters as of September 15. (3-30-07)

b. Step 2. Calculate the average Idaho housing price index of the four (4) quarters immediately preceding the earliest quarter used in Step 1. (3-30-07)

c. Step 3. Divide the Step 1 average by the Step 2 average to determine a factor. (3-30-07)

d. Step 4. Multiply the factor determined in Step 3 by the current maximum dollar-value limit on the homeowner's exemption to produce the new dollar-value limit. (3-30-07)

03. Partial Ownership. Any partial ownership shall be considered ownership for determining

qualification for the homeowner's exemption; however, the amount of the exemption shall be decided on the reduced proportion of the value commensurate with the proportion of partial ownership. The proportional reduction shall not apply to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation. For tenants in common with two (2) improvements located on one (1) parcel of land, determine the applicable value for the homeowner's exemption using the procedure shown in Example 1 of Paragraph 609.023.a., of this rule unless the owner-occupant provides documented evidence of a different ownership interest in the improvement. See Examples 2, 3, and 4 in Paragraphs 609.03.b., 609.03.c., and 609.03.d. of this rule for additional partial ownership guidance. To calculate property tax reduction benefits when partial ownership exists, see Paragraph 700.05.b., of these rules. (4-11-06)(____)

a. Example 1. John Smith and Bob Anderson own a property as tenants in common with two (2) residential improvements located on the property. Each residential improvement is owner occupied by one (1) of the tenants in common. The homeowner's exemption is calculated as follows:

Description	Value	Notes
Land	\$42,000	
Residential Improvement	\$82,000	Occupied by Mr. Smith
Prorated Ownership Interest (land and improvement)	\$62,000	Mr. Smith's interest
Homeowner's Exemption	\$31,000	For Mr. Smith as owner occupant
Residential Improvement	\$67,000	Occupied by Mr. Anderson
Prorated Ownership Interest (land and improvement)	\$54,500	Mr. Anderson's interest
Homeowner's Exemption	\$27,250	For Mr. Anderson as owner occupant

(3-30-07)

b. Example 2. John Smith and Bob Anderson own a parcel of land as tenants in common with two (2) residential improvements located on the parcel. Mr. Smith has documented evidence of one hundred percent (100%) interest in one (1) residential improvement and Mr. Anderson has documented evidence of one hundred percent (100%) interest in the remaining residential improvement. Each residential improvement is owner occupied. The homeowner's exemption is calculated as follows:

Item Description	Value	Notes
Land	\$42,000	
Residential Improvement	\$82,000	Owned and occupied by Mr. Smith
Homeowner's Exemption	\$51,500	For Mr. Smith
Residential Improvement	\$67,000	Owned and occupied by Mr. Anderson
Homeowner's Exemption	\$44,000	For Mr. Anderson

(3-30-07)

c. Example 3. Tom Johnson and Marie Johnson, husband and wife, and June Smith jointly own a property and occupy one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

<u>Description</u>	<u>Value</u>	<u>Notes</u>
<u>Land</u>	<u>95,000</u>	
<u>Residential Improvement</u>	<u>215,000</u>	
<u>Land and Improvement</u>	<u>310,000</u>	
<u>Prorated ownership interest (land and improvement) (\$310,000 X 66.67%)</u>	<u>206,677</u>	<u>Mr. & Mrs. Johnson's interest</u>
<u>Homeowner's Exemption Maximum for 2007 (\$89,325 X 66.67%)</u>	<u>59,550</u>	<u>Mr. & Mrs. Johnson's Homeowner's Exemption</u>
<u>Prorated ownership interest (land and improvement) (\$310,000 X 33.33%)</u>	<u>103,323</u>	<u>Ms. Smith's interest</u>
<u>Homeowner's Exemption Maximum for 2007 (\$89,325 X 33.33%)</u>	<u>29,775</u>	<u>Ms. Smith's Homeowner's Exemption</u>

()

d. Example 4. John and Susan Doe, husband and wife, and Mike Person jointly own a property, and Mr. and Mrs. Doe occupy the one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

<u>Description</u>	<u>Value</u>	<u>Notes</u>
<u>Land</u>	<u>65,000</u>	
<u>Residential Improvement</u>	<u>195,000</u>	
<u>Land and Improvement</u>	<u>260,000</u>	
<u>Prorated ownership interest (land and improvement) (\$260,000 X 66.67%)</u>	<u>173,342</u>	<u>Mr. & Mrs. Doe's interest</u>
<u>Homeowner's Exemption (Maximum for 2007 is 50% up to \$89,325)</u>	<u>86,671</u>	<u>Mr. & Mrs. Doe's Homeowner's Exemption</u>
<u>Prorated ownership interest (land and improvement) (\$260,000 X 33.33%)</u>	<u>86,658</u>	<u>Mr. Person's interest</u>
<u>Homeowner's Exemption</u>	<u>0</u>	<u>Mr. Person does not qualify for a homeowner's exemption on this property.</u>

()

04. Determination of Residency. The State Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county Board of Equalization for the sole purpose of providing one (1) indicator of eligibility for the homeowner's exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure. (4-11-06)

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (RULE 610). Section 63-602G, Idaho Code. (4-5-00)

01. Scope. This rule addresses issues relating to the homeowner's exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative

examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. (7-1-99)

02. Dual Residency Couples. As used in this rule, “dual residency couple” means a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.023 of these rules. (~~3-15-02~~)(____)

03. Dual Residency Couples -- General Principles. (7-1-99)

a. Whether a particular residential improvement is an individual’s primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner’s exemption. The test to be applied is the general test set out in Subsection 609.023 of these rules. (~~3-15-02~~)(____)

b. If a residential improvement is community property, either the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife can file an application for the homeowner’s exemption regarding community property on his or her own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-99)

c. Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homeowner’s exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homeowner's exemption. For purposes of the homeowner’s exemption, a community property interest is treated the same as a full ownership interest. (3-15-02)

d. An owner may apply only once for the homeowner’s exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (3-15-02)

04. Example -- Both Residences are Community Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner’s exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homeowner’s exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

05. Example -- One Residence Is Community Property, the Other Is Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner’s exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The homeowner’s exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

06. Example -- Both Residences are Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as his or her separate property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. Both residential improvements qualify for the full homeowner's exemption. Neither application is a second application by the same owner. Each spouse is a sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-99)

07. Apportionment of Homeowner's Exemption by Dual Residency Couples. Both spouses of a dual residency couple may elect to equally apportion the homeowner's exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement shall be entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties shall not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (4-5-00)

08. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a two-thirds (2/3) partial interest and the child holds a one-third (1/3) partial interest in the property. Qualification of the property for the homeowner's exemption is as follows: (7-1-99)

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the homeowner's exemption applies to two-thirds (2/3) of the value of the improvement. (3-15-02)

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the homeowner's exemption applies to one-third (1/3) of the value of the improvement. (3-15-02)

c. If the residential improvement is the primary dwelling of the husband, wife and child, the homeowner's exemption applies to the full value of the improvement. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homeowner's exemption applies to two-thirds (2/3) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The two-thirds (2/3) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Subsection 610.03.c. (3-15-02)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homeowner's exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02. through 610.07. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (RULE 645). Section 63-604, Idaho Code. (3-15-02)

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. (7-1-99)

a. Homesite. The “homesite” is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (7-1-99)

b. Associated Site Improvements. The “associated site improvements” include developed access, grading, sanitary facilities, water systems and utilities. (7-1-99)

c. Nursery Stock. Nursery stock is defined in Section 22-2302, Idaho Code. (3-15-02)

d. Land Used to Produce Nursery Stock. “Land used to produce nursery stock” means land used by an agricultural enterprise to promote or support the promotion of nursery stock growth or propagation, not land devoted primarily to selling nursery stock or related products. This term also includes land under any container used to grow or propagate nursery stock. This term does not include land used for parking lots or for buildings sites used primarily to sell nursery stock or related items or any areas not primarily used for the nurturing, growth or propagation of nursery stock. (3-15-02)

e. Speculative Value Exemption. The “speculative value exemption” is the exemption allowed on land actively devoted to agriculture. (7-1-99)

02. Homesite Assessment. Effective January 1, 1999, each homesite and residential and other improvements, located on the homesite, shall be assessed at market value each year. (7-1-99)

a. Accepted Assessment Procedures. Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (7-1-99)

b. Appropriate Market and Comparable Selection. The appropriate market is the market most similar to the homesite and improvements located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (7-1-99)

c. Assigning secondary category. ~~The value of~~ List and report the secondary category for the homesite will be listed in Category 10 using the chart in Subsection 645.02.c..

<u>Description of Land</u>	<u>Secondary Category</u>
<u>Rural and Nonsubdivided</u>	<u>10</u>
<u>Rural and Subdivided</u>	<u>15</u>
<u>Urban</u>	<u>20</u>

(7-1-99)()

d. Homesite Independent of Remaining Land. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (7-1-99)

03. Valuing Land, Excluding the Homesite. The assessor shall value land, excluding the homesite, on the following basis: (5-3-03)

a. Land Used for Personal Use or Pleasure. Any land, regardless of size, utilized for the grazing of animals kept primarily for personal use or pleasure and not a portion of a for profit enterprise, shall be valued at market value using appraisal procedures identified in Paragraph 645.02.a of this rule and shall not qualify for the speculative value exemption. (4-11-06)

b. Land in a Subdivision. Land in a subdivision with restrictions prohibiting agricultural use shall be

valued at market value using appraisal procedures identified in Paragraph 645.02.a of this rule and shall not qualify for the speculative value exemption but may qualify for the exemption under Section 63-602FF, Idaho Code. Land meeting the use qualifications identified in Section 63-604, Idaho Code, and in a subdivision without restrictions prohibiting agricultural use shall be valued as land actively devoted to agriculture using the same procedures as used for valuing land actively devoted to agriculture and not located in a subdivision. (4-11-06)

c. Land, Five (5) Contiguous Acres or Less. Land of five (5) contiguous acres or less shall be presumed nonagricultural, shall be valued at market value using appraisal procedures identified in Paragraph 645.02.a of this rule, and shall not qualify for the speculative value exemption. If the owner produces evidence that each contiguous holding of land under the same ownership has been devoted to agricultural use for the last three (3) growing seasons and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income or it produced gross revenue in the immediate preceding year of one thousand dollars (\$1,000) or more, the land actively devoted to agriculture, shall qualify for the speculative value exemption. For holdings of five (5) contiguous acres or less income is measured by production of crops, nursery stock, grazing, or net income from sale of livestock. Income shall be estimated from crop prices at harvest or nursery stock prices at time of sale. The use of the land and the income received in the prior year must be certified with the assessor by March 15, each year. (4-11-06)

d. Land, More Than Five (5) Contiguous Acres. Land of more than five (5) contiguous acres under one (1) ownership, producing agricultural field crops, nursery stock, or grazing, or in a cropland retirement or rotation program, as part of a for profit enterprise, shall qualify for the speculative value exemption. Land not annually meeting any of these requirements fails to qualify as land actively devoted to agriculture and shall be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule. (4-11-06)

04. Cross Reference. For definitions and general principles relating to the taxable value of land actively devoted to agriculture, see Rule 613 of these rules. For agricultural land taxable value calculation examples, see Rule 614 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

700. DEFINITIONS FOR PROPERTY TAX REDUCTION BENEFIT (RULE 700).
Section 63-701, Idaho Code. (3-15-02)

01. Blind. A person for whom there exists the medically documented opinion that the person is functionally blind as defined in Section 67-5402(2), Idaho Code. (3-30-01)

02. Burden of Proof. See Rule 600 of these rules. (3-15-02)

03. Claimant's Income. All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules. For the purposes of excluding from claimant's income any return of principal paid by the recipient of an annuity, follow these guidelines. (3-30-07)

a. An annuity means a contract sold by an insurance company to the claimant or claimant's spouse and designed to provide payments to the holder at specified equally spaced intervals or as a lump sum payment with the following conditions: (3-30-07)

i. The annuity must not be part of any pension plan available to an employee; (3-30-07)

ii. No tax preference is given to the money spent to purchase the annuity (purchase payments must not reduce the buyer's taxable income); (3-30-07)

iii. The buyer of the annuity must have purchased the annuity voluntary and not as a condition of employment or participation in an employer provided pension system; and (3-30-07)

iv. Earnings from investments in the annuity must be tax-deferred prior to withdrawal. (3-30-07)

b. Annuities do not include KEOGH plans, Individual Retirement Accounts (IRAs), employer provided pensions, and similar financial instruments. Life insurance premiums shall not be treated as the principal of an annuity. (3-30-07)

c. The recipient of the annuity payment(s), the claimant or claimant's spouse, has the burden of proving the income is the principal paid by the recipient. Such proof includes copies of the holder's annuity contract and any other documentation clearly indicating the conditions listed in Subparagraphs 700.03.a.i. through 700.03.a.iv. of this Rule are met. IRS form 1099 does not provide sufficient proof. (3-30-07)

04. Fatherless/Motherless Child. Fatherless/Motherless child for purposes of Section 63-701(1), Idaho Code, means a child judicially determined to be abandoned, as defined by Sections 16-1602 or 16-2005, Idaho Code, by the child's male/female parent or a child whose male/female parent has had his parental rights terminated pursuant to court order or is deceased. (3-30-01)

05. Proportional Reduction of Value. Proportional reduction of value pursuant to Section 63-701(7), Idaho Code, is required for partial ownership of otherwise eligible property. (3-15-02)

a. There is no reduction of value for community property with no other interests except as provided in Rules 610.07 and 709.04 of these rules. Additionally, there is no reduction in value for the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than a five percent (5%) interest in the entity unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation. (3-15-02)

b. In other cases, benefits are to be calculated by applying the claimant's property tax reduction benefit to the eligible net taxable value of the claimant's share of the property. This value is determined by multiplying the market value of the land and of the improvement times the claimant's percent of ownership and subtracting the claimant's homeowner's exemption. *For example:* (3-30-07)()

i. Example 1. The claimant is the sole occupant of the property but only owns fifty percent (50%) of the property. In this example, the claimant's property tax reduction benefit will be applied to the tax on his/her net taxable market value of \$50,000.

Land Market Value	\$ 50,000
Improvement Market Value	\$150,000
Gross Market Value	\$200,000
Percent of Ownership of Claimant	50%
Claimant's Share of Land Market Value & Improvement Market Value (Land Market Value & Improvement Market Value x Percentage of Ownership)	\$ 100,000
Claimant's Homeowner's Exemption (Claimant's Share of Improvement and Land Market Value x 50%, (not to exceed \$75,000 <u>\$9,325</u> for 200 <u>67</u>)	<\$50,000>
Claimant's Eligible Net Taxable Value equals Claimant's Share of Market Value less Homeowner's Exemption (\$100,000 - \$50,000 = \$50,000)	\$50,000

(3-30-07)()

ii. Example 2. Tom Johnson and Marie Johnson, husband and wife, and property tax reduction claimant June Smith jointly own a property and occupy one (1) residential improvement located on the property. Calculate both homeowners' exemptions, and apply Ms. Smith's property tax reduction benefit to the tax on the net taxable value of her interest in the property.

<u>Description</u>	<u>Value</u>	<u>Notes</u>
<u>Land</u>	<u>95,000</u>	
<u>Residential Improvement</u>	<u>215,000</u>	
<u>Land and Improvement</u>	<u>310,000</u>	
<u>Prorated ownership interest (land and improvement) (\$310,000 X 66.67%)</u>	<u>206,677</u>	<u>Mr. & Mrs. Johnson's interest</u>
<u>Homeowner's Exemption Maximum for 2007 (\$89,325 X 66.67%)</u>	<u>59,550</u>	<u>Mr. & Mrs. Johnson's Homeowner's Exemption</u>
<u>Prorated ownership interest (land and improvement) (\$310,000 X 33.33%)</u>	<u>103,323</u>	<u>Ms. Smith's interest</u>
<u>Homeowner's Exemption Maximum for 2007 (\$89,325 X 33.33%)</u>	<u>29,775</u>	<u>Ms. Smith's Homeowner's Exemption</u>
<u>Value of prorated interest less homeowner's exemption.</u>	<u>73,548</u>	<u>Ms. Smith's property tax reduction benefit is applied to the tax on the net taxable value.</u>

()

06. Physician. Physician shall mean a licensed physician, as defined in Section 54-1803(3), Idaho Code. (3-30-01)

07. Widow/Widower. A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled. (3-15-02)

08. Cross Reference. See Chapter 79, Title 67, Idaho Code, for requirements relating to lawful presence in the United States. ()

701. HOW TO VERIFY THAT CLAIMANTS ARE LAWFULLY PRESENT IN THE UNITED STATES (RULE 701).
Sections 63-701 through 710 and Sections 67-7901 through 7903, Idaho Code. ()

01. Lawful Presence in the United States. The county assessor shall verify that any claimant who is eighteen (18) years of age or older is lawfully present in the United States before approving the claimant for property tax reduction pursuant to Sections 63-701 through 710, Idaho Code, by doing the following: ()

a. Providing to the State Tax Commission electronically and by paper copies documentation verifying that the claimant's name, social security number, and date of birth used for social security records of the claimant and the claimant's spouse, if married, are correct. Examples of documentation that would verify that the information is correct include, but are not limited to the following: ()

i. Federal Form W-2; ()

ii. Federal Form 1099; ()

iii. Form 1099 received by the claimant from the Social Security Administration or the Railroad Retirement Board, or the federal Personnel Management System; ()

- iv. Social Security Card; ()
- v. Birth Certificate; or ()
- vi. Documents listed under paragraph 701.01.b. of this rule. ()
- b.** If the claimant or the claimant's spouse, if married, is not currently receiving benefits from the Social Security Administration, the Railroad Retirement Board, or the federal Personnel Management System, then requiring the claimant to submit the following, a copy of which shall be attached to the application for property tax reduction: ()
 - i. An Idaho driver's license or an Idaho identification card issued pursuant to Section 49-2444, Idaho Code; or ()
 - ii. A valid driver's license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph of the individual or the claimant's age, sex, race, height, weight, or other such personal identifying information relating to the individual sufficient to show that the individual is the person identified in the other state or territory of the United States driver's license or similar identification document; or ()
 - iii. A United States military card or a military dependent's identification card; or ()
 - iv. A United States coast guard merchant mariner card; or ()
 - v. A Native American tribal document; or ()
 - vi. A valid United States passport. ()
- c.** Attestation of Lawful Presence. In addition to the documentation provided in Paragraphs 701.01.a. and 701.01.b. of this rule the claimant is also required to attest, under penalty of perjury and on a form designated by the State Tax Commission, that: ()
 - i. The social security number(s) provided is/are valid; and ()
 - ii. The claimant and the claimant's spouse, if married, are United States citizens or legal permanent residents; or ()
 - iii. The claimant and the claimant's spouse, if married, are otherwise lawfully present in the United States pursuant to federal law. ()
- d.** Audit. During audit the State Tax Commission shall: ()
 - i. Verify the claimant's and the claimant's spouse's, if married, social security number(s) electronically with the Social Security Administration or through other appropriate governmental agencies or means. ()
 - ii. Presume the attestation to be proof of lawful presence for purposes of this section until such verification of lawful presence is made. ()
- e.** Successive Applications. Once a claimant and the claimant's spouse, if married, have been verified as lawfully present in the United States pursuant to this rule, a claimant and the claimant's spouse, if married, in successive years will be presumed to be lawfully present in the United States if the claimant and the claimant's spouse, if married, continue to attest in each successive application that no change has occurred in their status. ()

~~701.2.~~ -- 708. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

717. PROCEDURE AFTER CLAIM APPROVAL (RULE 717).

Sections 63-115 and 63-707, Idaho Code.

(3-30-07)

01. Formatting Requirements. The property tax reduction roll shall be formatted as required by Section 63-707, Idaho Code. (3-30-01)

02. Preliminary Property Tax Reduction Roll. The roll, certified by the assessor to the county auditor and the State Tax Commission by the fourth Monday in June, shall be termed the preliminary property tax reduction roll. The preliminary property tax reduction roll shall list property tax reduction claimants in alphabetical order unless the State Tax Commission grants permission for claimants to be listed in an alternate order. Each original claim form shall be submitted to the State Tax Commission in the same order as shown on the preliminary property tax reduction roll. (3-30-01)

03. Final Property Tax Reduction Roll. The completed property tax reduction roll, certified by each county clerk to the State Tax Commission by the fourth (4th) Monday in October, shall be termed the final property tax reduction roll. The final property tax reduction roll shall list property tax reduction claimants in the same order as shown on the preliminary property tax reduction roll, except that all fully disapproved claimants shall be deleted and not shown on the final property tax reduction roll. Erroneous claims which are partially disapproved by the State Tax Commission shall be shown on the final property tax reduction roll after the county clerk has made all adjustments or corrections listed on the notice sent to the county auditor pursuant to Section 63-707(6), Idaho Code, termed county change letter. (3-30-01)

04. Certification of Electronic Property Tax Reduction Roll by County Assessor. After approval of the claims by the county board of equalization but no later than the fourth Monday in June, each county assessor will certify the property tax reduction roll to the county auditor and send a copy to the State Tax Commission. In addition, each county assessor will also send a copy of this certified roll to the State Tax Commission in a password protected electronic data file formatted as directed or approved by the State Tax Commission. Each county assessor will contact the State Tax Commission to receive a password. This password protected electronic roll will contain the following information: (3-30-07)

- a. Claimant's Social Security Number. List the claimant's social security number. (3-30-07)
- b. Claimant's Date of Birth. List the claimant's date of birth. (3-30-07)
- c. Claimant's Last Name. List the claimant's last name. (3-30-07)
- d. Claimant's First Name. List the claimant's first name. (3-30-07)
- e. Spouse's Social Security Number. List the social security number for the spouse of the claimant. (3-30-07)
- f. Spouse's Date of Birth. List the date of birth for the spouse of the claimant. (3-30-07)
- g. Spouse's Last Name. List the last name for the spouse of the claimant. (3-30-07)
- h. Spouse's First Name. List the first name for the spouse of the claimant. (3-30-07)
- i. Claimant's Telephone Number. List the claimant's telephone number. (3-30-07)
- j. Claimant's Address. List the claimant's address. (3-30-07)
- k. Claimant's City. List the city where the claimant lives. (3-30-07)
- l. Claimant's State. List the postal abbreviation for the state where the claimant lives. (3-30-07)

- m.** Claimant's Zip Code. List the claimant's zip code. (3-30-07)
- n.** Claimant's Parcel Number(s). List the parcel number for the property on which the claimant is receiving the homeowner's exemption. When more than one (1) parcel owned by the claimant is eligible, list all eligible parcel numbers. (3-30-07)
- o.** Year. List the current year. (3-30-07)
- p.** Claimant's County Number. List the number of the county where the claimant lives. (3-30-07)
- q.** Term of Direct Address. List the appropriate term of direct address; that is, "Mr.," "Ms.," or "Mr. & Mrs." (3-30-07)
- r.** Income Data. List income data. (3-30-07)
- s.** Identify New Applicants. Identify claimants who are applying for this benefit for the first time. (3-30-07)
- t.** Value. List the best estimate for each secondary category of current market value and prorated net taxable value. (3-30-07)
- u.** Maximum Benefit. The program will automatically show the maximum benefit for which the claimant is eligible based on income. (3-30-07)
- v.** Qualifying Criteria. Identify all of the following criteria that the claimant meets. (3-30-07)
- i. Sixty-five (65) years old or older. (~~3-30-07~~)()
- ii. Blind. (3-30-07)
- iii. Disability granted by the Social Security Administration, Railroad Retirement Board, or federal civil service. (3-30-07)
- iv. Orphan, under eighteen (18) years of age. (3-30-07)
- v. Prisoner of war or hostage, certified by Veteran's Affairs. (3-30-07)
- vi. Nonservice connected disability or service connected disability at ten percent (10%) to thirty percent (30%), certified by Veteran's Affairs. (3-30-07)
- vii. Service connected disability at forty percent (40%) or more, certified by Veteran's Affairs. (3-30-07)
- viii. Widow or widower, include date of spouse's death. (3-30-07)
- ix. Whether the claimant is lawfully present in the United States. ()
- 05. Certification of Completed Electronic Property Tax Reduction Roll by County Auditor.** No later than the fourth Monday in October, each county auditor will certify the property tax reduction roll to the State Tax Commission. In addition, each county auditor will also send a copy of this certified roll to the State Tax Commission in a password protected electronic data file formatted as directed or approved by the State Tax Commission. Each county auditor will contact the State Tax Commission to receive a password. In addition to the data files listed in Paragraphs 717.01.a. through 717.01.v. of this rule, this password protected electronic roll will contain the following information formatted as directed or approved by the State Tax Commission. (3-30-07)
- a.** Current Year's Levy. List the current year's levy for the tax code area where each claimant's

property is located. (3-30-07)

b. Current Year's Taxable Value. List the current year's taxable value for each claimant's qualifying property. (3-30-07)

c. Claimed Property Tax Reduction Amount. List for each claimant the amount of property tax reduction claimed based on the current year's levy and the current year's eligible taxable value. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

804. TAX LEVY -- CERTIFICATION -- URBAN RENEWAL DISTRICTS (RULE 804). ()
Section 63-803, Idaho Code.

01. Definitions. (4-5-00)

a. "Urban renewal district." An urban renewal district, as referred to in Section 63-215, Idaho Code, shall mean an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts. (4-5-00)

b. "Revenue allocation area (RAA)." A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, shall be the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. Revenue allocation areas (RAAs) are not taxing districts. (4-5-00)

c. "Current base value." The current base value of each parcel in a taxing district or unit shall be the value of that parcel on the current base assessment roll as defined under Section 50-2903, Idaho Code. Current base value does not include value found on the occupancy roll. (4-5-00)

d. "Initial base value." The initial base value for each parcel is the sum of the taxable value of each category of property in the parcel for the year the RAA is established. (4-5-00)

e. "Increment value." The increment value is the difference between the current equalized value of each parcel of taxable property in the RAA and that parcel's current base value, provided such difference is a positive value. (4-5-00)

02. Establishing and Adjusting Base and Increment Values. (4-5-00)

a. Establishing initial base value. If a parcel's legal description has changed prior to computing initial base year value, the value that best reflects the prior year's taxable value of the parcel's current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the taxable value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable property, as defined in Section 50-2903, Idaho Code. Initial base value does not include value found on the occupancy roll. (4-5-00)

b. Adjustments to base value - general value changes. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less than the most recent base value for such parcel. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments shall be made by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property shall establish new base values from which future adjustments may be made. In the following examples the parcel's initial base value is one hundred thousand dollars (\$100,000), including Category 21 value of twenty thousand dollars (\$20,000) and Category 42 value of eighty thousand dollars (\$80,000). (4-5-00)

i. Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar (\$1,000) decrease in value in Category 21 and a one thousand dollar (\$1,000) increase in Category 42 value. There is no change in the base value for the parcel. (4-5-00)

ii. Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars (\$3,000) decrease in value in Category 21 and a one thousand dollars (\$1,000) increase in Category 42 value. The base value decreases two thousand dollars (\$2,000) to ninety-eight thousand dollars (\$98,000). (4-5-00)

iii. Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety-eight thousand dollars (\$98,000), the value of the parcel increases by five thousand dollars (\$5,000) which is the net of category changes. The base value remains at ninety-eight thousand dollars (\$98,000). (4-5-00)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel's legal description. This adjustment shall be calculated as described in the following subsections. (4-5-00)

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value. (4-5-00)

ii. When a parcel has been combined with another parcel, the most recent base year values are added together. (4-5-00)

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split shall be calculated as set forth in Subsection 804.02.c.i. and then the value of the combination will be calculated as set forth in Subsection 804.02.c.ii. (4-5-00)

d. Adjustments to base values when exempt parcels become taxable. Base values shall be adjusted as described in the following subsections. (4-5-00)

i. Fully exempt parcels at time of RAA establishment. When a parcel that was exempt at the time the RAA was established becomes taxable, the base value is to be adjusted upwards to reflect the estimated value of the formerly exempt parcel at the time the RAA was established. (4-5-00)

ii. Partially exempt parcels. When a partially exempt parcel within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA was established and the taxable value of the parcel included in the base value of the RAA. For example, assume a parcel of farmland within an RAA had a taxable value of five hundred dollars (\$500) in the year the RAA base value was established. Assume also that if this parcel had not been actively devoted to agriculture at that time, the taxable value would have been fifteen hundred dollars (\$1500). After five (5) years, this parcel is no longer used for farming, loses its partial exemption, and becomes reclassified as industrial land with a value of ten thousand dollars (\$10,000). The base value within the RAA would be adjusted upwards by one thousand dollars (\$1,000), the difference between fifteen hundred dollars (\$1500) and five hundred (\$500). (4-5-00)

iii. Change of exempt status. When a parcel that is taxable and included in the base value at the time the RAA is established subsequently becomes exempt, the base value is reduced by the original value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is to be adjusted upward by the same amount that was originally subtracted. For example, assume a land parcel had a base value of twenty thousand dollars (\$20,000). Three (3) years later, an improvement valued at one hundred thousand dollars (\$100,000) was added. The land at this later date had a value of thirty thousand dollars (\$30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by twenty thousand dollars (\$20,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by twenty thousand dollars (\$20,000). (4-5-00)

e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property shall be considered removed only under the conditions described in the following subsections. (4-5-00)

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0). (4-5-00)

ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA. (4-5-00)

iii. For operating property, any of the property under a given ownership is removed from the RAA. (4-5-00)

f. Adjustments to increment values. Decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars (\$100,000) decreases in value to ninety-five thousand dollars (\$95,000), but later increases to ninety-eight thousand dollars (\$98,000), an increment value of three thousand dollars (\$3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars (\$102,000) after the decrease to ninety-five thousand dollars (\$95,000), the increment value would be seven thousand dollars (\$7,000). (4-5-00)

g. Apportioning operating property values. For operating property, the original base value shall be apportioned to the RAA on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value shall be adjusted as required under Section 50-2903, Idaho Code. (4-5-00)

03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts. The property tax levy for any taxing district or unit which includes all or part of an RAA in an urban renewal district shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the taxing district or unit by the market value for assessment purposes of all taxable property within the taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district is one hundred million dollars (\$100,000,000) but fifteen million dollars (\$15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's budget by eighty-five million dollars (\$85,000,000). (4-5-00)

04. Modification of an Urban Renewal Plan. When an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision, the current value of property in the RAA shall be determined as if the modification had not occurred. All modifications to urban renewal areas and RAAs must comply with the provisions of Rule 225 of these rules. (4-5-00)

a. Modification by consolidation of RAAs. If such modification involves combination or consolidation of two (2) or more RAAs, the base value shall be determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current taxable value of property in an area not previously included in any RAA shall be added to determine the total current base value for the consolidated RAA. (4-5-00)

b. Modification by annexation. If an RAA is modified by annexation, the current taxable value of property in the area annexed shall be added to the most current base value determined for the RAA prior to the annexation. (4-5-00)

~~**05. Allocation to School Districts.** In the case of school districts, the budget limited by Section 63-802, Idaho Code, shall not include the allocation pursuant to Section 50-2908, Idaho Code. Said allocation shall be computed for any school district by multiplying the school district's urban renewal increment as defined in Rule 329 of these rules by four tenths of one percent (0.4%) pursuant to Section 33-1002, Idaho Code. (4-5-00)~~

065. Cross Reference. The county auditor shall certify the full market value by taxing district as specified in Rule ~~63995~~ of these rules. (4-5-00)(____)

805. PENALTY FOR FAILURE TO PROVIDE NOTICE OF BUDGET HEARING (RULE 805).
Section 63-802A, Idaho Code. (3-15-02)

01. Penalties for Noncompliance. Effective January 1, 2003, penalties shall be applied to any taxing district that fails to provide each appropriate county clerk with written notification of the budget hearing information required pursuant to Section 63-802A, Idaho Code. ~~The penalties provided by this section apply only to failure to comply with the April 30 notification deadline.~~ (3-15-02)

~~a. Noncomplying Nonschool Districts.~~ There shall be no increase in the portion of the budget subject to the limitations of Section 63-802, Idaho Code. This restriction shall apply to otherwise available budget increases from the three percent (3%) growth factor, new construction or change of land use classification, and annexation. There shall also be no increase resulting from adding previously accrued foregone increase amounts to the budget and the total accrued foregone amount shall not change for a noncomplying district. The penalties provided by this section apply only to failure to comply with the April 30 notification deadline. (3-15-02)()

~~b. Noncomplying School Districts. The maintenance and operation portion of the budget is the portion that shall not increase. School tort and tuition funds shall be permitted to increase, subject to the limitations of Section 63-802, Idaho Code.~~ (3-15-02)

02. Exceptions. Voter approved budget increases permitted pursuant to Section 63-802(4), Idaho Code, shall be allowed. (3-15-02)

03. County Clerks to Submit Lists. By the fourth Monday of May, each county clerk shall submit to the State Tax Commission a list of noncomplying taxing districts along with other documents required pursuant to Rule 803 of these rules and Section 63-808, Idaho Code. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

~~808. 907.~~ (RESERVED).

809. CORRECTION OF ERRONEOUS LEVY (RULE 809).
Sections 63-809 and 63-810, Idaho Code. ()

01. Errors Discovered by the Fourth Monday in October. When the State Tax Commission receives by the fourth Monday in October from a board of county commissioners notice of corrections for unintentional clerical, mathematical, or electronic errors under Section 63-810, Idaho Code, the State Tax Commission shall make the corrections to any approved levies by the fourth Monday in October. ()

02. Errors Discovered After the Fourth Monday in October. When the State Tax Commission receives after the fourth Monday in October and prior to the following January 30 notices of corrections for any unintentional errors, as referenced in Subsection 809.01 of this rule, the State Tax Commission shall make the corrections and approve the appropriate corrected levies within one (1) week. ()

03. Cross Reference. For information on reporting of corrections for unintentional clerical, mathematical, or electronic errors, see Sections 63-809 and 63-810, Idaho Code, and Rule 509 of these rules. ()

810. (RESERVED).

811. COMPUTATION OF PROPERTY TAXES (RULE 811).
Section 63-811, Idaho Code. ()

01. Duty of the County Auditor. Upon distribution of the approved final levy rates for the current year from the State Tax Commission by the fourth Monday in October, the county auditor shall deliver the final levy rates and the total tax charge for each taxing district or unit that is levying for the current year within the county to the county treasurer by the first Monday in November for the property roll and operating property roll, by the first

Monday in December for the subsequent property roll, and by the first Monday in March of the following year for the missed property roll. ()

02. Duty of the County Treasurer. Upon receipt of the final levy rates and total tax charge for each taxing district or unit, the county treasurer shall compute the individual tax charge for each taxable property in the county and prepare and mail the property tax bill for each taxable property according to Section 63-902, Idaho Code, and Rule 902 of these rules. ()

812. -- 901. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

966. RECAPTURE OF DEFERRED TAXES ON LANDS DESIGNATED UNDER SECTION 63-1706, IDAHO CODE (RULE 966).
Section 63-1703, Idaho Code. ()

01. Ownership Interest/Deferred Taxes. Where forestland is held in joint ownership, a transfer of ownership for purposes of recapturing deferred taxes shall occur when any one (1) of the legal entities holding an ownership interest in the subject property shall convey, transfer, or otherwise dispose of their ownership interest or portion thereof. Any such transfer of ownership shall subject the entire parcel to recapture of deferred taxes, unless the new owner timely redesignates their ownership interest under Section 63-1706, Idaho Code. (7-1-97)

02. Deferred Tax Responsibility. Deferred taxes shall be the responsibility of the selling landowner. Deferred taxes shall constitute a lien on the land. (3-30-01)

03. Change in Use/Deferred Taxes. Forestlands designated under Section 63-1706, Idaho Code, and subsequently removed from the designation by change in use with no ownership transfer to any ~~taxing category~~ use other than designation under Section 63-1705, Idaho Code, shall cause a recapture of deferred taxes calculated in the following manner: ~~(3-30-01)~~()

a. The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current market value for assessment purposes of the property during the current year; (3-30-01)

b. Multiplied by the current levy for the tax code area or areas in which the parcel lies; (3-30-01)

c. Multiplied by the number of years, including the entire current year, the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. (3-30-01)

04. Transfer of Ownership/Deferred Taxes. Forestland designated under Section 63-1706, Idaho Code, upon transfer of ownership or removal to designation under Section 63-1705, Idaho Code, shall be subject to a recapture of deferred taxes calculated in the following manner: (3-30-01)

a. The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current productivity value for the correct class of land in the forest value zone in which the parcel lies, for the current year; (3-30-01)

b. Multiplied by the current levy for the tax code area or areas in which the parcel lies; (3-30-01)

c. Multiplied by the number of years, including the entire current year, which the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. (3-30-01)

05. Investment Lands. Investment lands are defined as those in secondary categories 1, 2, 3, 4, 5, and 9, as defined in Rule ~~30~~ 510 of these rules. ~~(3-30-01)~~()

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 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(s) 63-105, 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 October 17, 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:

Rule 105: To notify gaseous fuels distributors that a bad debt credit cannot be claimed on or after December 1, 2007, and to show that a gaseous fuels distributor pays fuels taxes and permit fees to the Tax Commission.

Rule 130: To be consistent with the passage of House Bills 14 and 249a; to remove a deduction for gallons delivered to an Indian-owned retail outlet and to add a deduction for fuel that is the subject of an agreement authorized by section 67-4002, Idaho Code, only if the agreement is signed by the governor and appropriate representative of a tribe before December 1, 2007; to refer to other limitations for the deduction contained in Idaho Code section 63-2407; to show how the 2% allowance was distributed before December 1, 2007; to show how the 2% allowance is distributed on and after December 1, 2007; and to notify fuels distributors that a bad debt credit cannot be claimed on or after December 1, 2007.

Rule 140: To be consistent with the passage of House Bill 249a; to show how the 2% allowance was distributed before December 1, 2007; to show how the 2% allowance is distributed on and after December 1, 2007; and to notify fuels distributors that a bad debt credit cannot be claimed on or after December 1, 2007.

Rule 160: To be consistent with the passage of House Bill 249a, and to show that a licensed fuels distributor pays aircraft engine taxes to the Tax Commission.

Rule 180: To be consistent with the law due to the passage of House Bill 249a, to remove bad debt credit and update the language.

Rule 270: Adding December 1, 2007, cutoff date to be consistent with the law due to the passage of House Bill 249a and to show that purchases of motor fuels from an Indian-owned retail outlet after December 1, 2007, may not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase

Rule 292: Adding December 1, 2007, cutoff date to be consistent with the law due to the passage of House Bill 249a and to show that purchases of motor fuels from an Indian-owned retail outlet after December 1, 2007, may not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase.

Rule 510: To be consistent with the passage of House Bills 14 and 249a, to remove "cost of collections" in regard to the 2% discount granted to licensed fuel distributors when they pay motor fuels taxes, and to add biodiesel to the list of products subject to the transfer fee.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2), the Governor has found that temporary adoption of the rule is appropriate for the following reasons: In compliance with deadlines in amendments to governing law.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Randy Nilson, at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-0701

105. LICENSED GASEOUS FUELS DISTRIBUTOR'S REPORTS (RULE 105).

01. Monthly Reports. Every licensed gaseous fuels distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (7-1-99)

- a.** The total taxable gallons of gaseous fuels delivered into the supply tank of registered motor vehicles; (3-30-07)
- b.** The taxable gallons after deduction of a two percent (2%) allowance. See Rule 140 of these rules; (4-5-00)
- c.** The tax computation; (7-1-99)
- d.** The bad debt amount, if any. (This credit or debit only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.) See Rule 140 of these rules; ~~(4-5-00)~~(12-1-07)T
- e.** The gaseous fuels permit fees (Attach to the report the yellow copy of the receipt for each gaseous fuels permit sold during that month); and (4-5-00)
- f.** The net tax due; (4-5-00)
- g.** A receipt schedule reporting the total number of taxable gallons of gaseous fuels sold must be

attached to the distributor's report. (4-5-00)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates together with the payment of any tax, annual gaseous fuels permit fees, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

03. Failure to ~~Collect and Remit~~ Pay Tax and Permit Fees. Any gaseous fuels distributor required to ~~collect~~ pay the tax or permit fee imposed by Section 63-2424, Idaho Code, who fails to ~~collect~~ pay such tax or permit fee, ~~or any gaseous fuels distributor required to remit the tax or permit fee pursuant to this section who fails to make such remittance~~ shall be liable to the State Tax Commission for the amount of tax or permit fee not ~~collected or remitted~~ paid plus any applicable penalty or interest. The State Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. (~~7-1-99~~)(12-1-07)T

04. Receipt of Gaseous Fuels. The special fuels tax is not imposed on gaseous fuels when the fuels are received in Idaho. (4-5-00)

05. Gaseous Fuels. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the supply tank of a registered, or required to be registered, motor vehicle. (3-30-07)

06. Annual Fees for Gaseous Fuels Permits. Persons operating vehicles powered by gaseous fuels may pay an annual fee for a gaseous fuels permit instead of paying the special fuel taxes at the time propane or natural gas is purchased. Gaseous fuels distributors who sell these permits shall issue a permit that will be in the form of a decal to be displayed in a conspicuous spot visible from the outside of the permitted vehicle. The fees for gaseous fuels permits are based on the gross vehicle weight of the vehicles and are set by Rule 115 of these rules as is mandated by Section 63-2424(2), Idaho Code. The gaseous fuels permit is valid for the annual permit period of July 1 through June 30 of the following year. The annual permit period displayed on the decal will be the year in which the decal expires. (4-5-00)

07. Documentation of Untaxed Gaseous Fuels Delivered into Motor Vehicles. Gaseous fuels delivered into the fuel supply tank of a registered, or required to be registered, motor vehicle are taxable except for: (3-30-07)

a. Government. Gaseous fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the licensed distributor must record on the document of sale, the name of the governmental entity, the license or identification number, and the type of vehicle. (7-1-99)

b. Gaseous Fuels Decal. Gaseous fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Fuels Decal are exempt from tax. For the exempt status to be valid, the purchaser's name, address, vehicle license number, and the words "gaseous fuels decal" must be recorded on the sales document. (4-5-00)

08. Completion of Gaseous Fuels Receipt Book(s). The following information is required to be recorded by a gaseous fuels distributor in his gaseous fuels receipt book for each gaseous fuels permit (decal) sold: (4-5-00)

a. The date; (4-5-00)

b. The amount; (4-5-00)

c. One (1) of the following weight classes: (4-5-00)

i. Zero - eight thousand pounds (0 - 8,000 lbs.); or (4-5-00)

ii. Eight thousand one - sixteen thousand pounds (8,001 - 16,000 lbs.); or (4-5-00)

- iii. Sixteen thousand one - twenty-six thousand pounds (16,001 - 26,000 lbs.); or (4-5-00)
- iv. Twenty-six thousand one pounds (26,001 lbs.) and over. (4-5-00)
- d. The current month; (4-5-00)
- e. The annual permit period; (4-5-00)
- f. The customer's name and vehicle license plate number; (4-5-00)
- g. The name and license number of the gaseous fuels distributor who is selling the permit; and (4-5-00)
- h. The signature of the salesperson. (4-5-00)

09. Annual Reconciliation of Gaseous Fuels Receipt Books and Decals. A distributor who sells gaseous fuels permits must reconcile its account with the State Tax Commission for the annual permit period ending June 30, by July 31, of the same year. Distributors may begin ordering decals and receipt books in May for the upcoming annual permit period. The following is required to be received by the State Tax Commission for reconciliation: (4-5-00)

- a. All unused/unsold gaseous fuels decals; (4-5-00)
- b. All voided receipts (white and yellow copies) not previously submitted with the distributor report; (4-5-00)
- c. All receipt books (pink copies must be intact); and (4-5-00)
- d. A completed gaseous fuels reconciliation form which includes: (4-5-00)
 - i. The number of decals ordered for the annual permit period; (4-5-00)
 - ii. The number of decals sold for the annual permit period; (4-5-00)
 - iii. The balance of decals at the end of the annual permit period; and (4-5-00)
 - iv. The number, if any, of decals lost or destroyed. If decals are lost or destroyed, a statement describing the circumstances of the loss or destruction must accompany the distributor's gaseous fuels permit reconciliation. (4-5-00)

10. Assessment for Unaccounted for Decals. Two hundred and eight dollars (\$208) will be assessed for each decal not accounted for during the annual reconciliation, unless there is clear and convincing evidence the decal was destroyed or mutilated. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

130. DISTRIBUTOR'S FUEL TAX REPORTS (RULE 130).

01. Monthly Reports. Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and/or outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of

gallons supplied by each supplier, on a load-by-load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (3-30-01)

- a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-98)
- b. The total quantity of motor fuels and other petroleum products received during the month; (7-1-98)
- c. The total quantity of motor fuels and other petroleum products disbursed during the month. Disbursements include motor fuel that is: (4-11-06)
 - i. Delivered to licensed distributors tax and transfer fee not collected; (4-11-06)
 - ii. Exported; (4-11-06)
 - iii. Delivered to the Idaho National Guard tax exempt; or (4-11-06)
 - iv. ~~Delivered to an Indian-owned retail outlet tax not collected.~~ Exempt from fuels tax because the fuel is the subject of an agreement authorized by Section 67-4002, Idaho Code, to the extent provided by the agreement, but only if the agreement is signed by the governor and appropriate representative of a tribe before December 1, 2007. (~~4-11-06~~)(12-1-07)T
- d. The total quantity of motor fuels and other petroleum products transferred or relabeled from one (1) fuel type to another; (7-1-98)
- e. The casualty loss documented with satisfactory written explanation of proof of loss; (7-1-98)
- f. The ending inventory of motor fuels and other petroleum products on the last day of the month; (7-1-98)
- g. The gross taxable gallons of motor fuels and other petroleum products; (7-1-98)
- h. The tax-paid purchases; (7-1-98)
- i. The net taxable gallons; (7-1-98)
- j. The gallons of ethanol ~~and biodiesel~~ reported in ethanol ~~blends~~, blended fuel. The deduction for ethanol is limited to ten percent (10%) of the total volume of the product that meets the definition of gasohol as defined in Section 63-2401, Idaho Code. Biodiesel reported in biodiesel ~~blends~~, and biodiesel blended fuel. ~~(limited)~~ The deduction for biodiesel is up to ten percent (10%) of the total volume. See Section 63-2407, Idaho Code, for other limitations to these deductions; (~~4-11-06~~)(12-1-07)T
- k. The gallons after deduction of a one percent (1%) or two percent (2%) allowance, whichever is appropriate. (This subsection only applies to receipts of motor fuels received before December 1, 2007.) See Rule 140 of these rules; (~~7-1-99~~)(12-1-07)T
- l. The gallons after deduction of a two percent (2%) allowance. (This subsection only applies to receipts of motor fuels received on and after December 1, 2007.) See Rule 140 of these rules; (12-1-07)T
- m. The tax computation; (7-1-98)
- n. The bad debt amounts, refer to Rule 140 of these rules (This section only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.); (~~7-1-98~~)(12-1-07)T

- 19.** The gaseous fuels permit fees; and (4-11-06)
- 20.** The net tax due. (4-11-06)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates. Supporting detailed schedules required by the State Tax Commission must accompany the report, together with all documentation and the payment of any tax, transfer fee, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

03. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on State Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the State Tax Commission with a copy of the format and must be granted written authorization to use that format. (7-1-98)

04. Supplemental Reports. In addition to the monthly report, a supplemental report may be filed in those cases involving additional shipments of motor fuels and other petroleum products to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be subject to penalty if reported in the supplemental report. If a supplemental report is filed, the State Tax Commission will impose interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth day of the month following the month in which a report from which shipments were omitted was due. (7-1-98)

- 05. Timely Reporting.** Any petroleum product shipments that are: (7-1-98)

- a.** Reported on a timely supplemental report shall be subject to interest but are not subject to penalty. (7-1-98)
- b.** Not reported on a timely monthly or supplemental report shall be subject to interest and may be subject to penalty. (7-1-99)

06. Motor Fuels Receipts. All gasoline, gasohol, aircraft engine fuel, and undyed diesel fuel received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to Rule 105 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

140. DEDUCTIONS (RULE 140).

01. Motor Fuels and Petroleum Products Presumed To Be Distributed. Unless the contrary is established, it shall be presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and/or transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee will be allowed for accidental losses of motor fuels or other petroleum products. (7-1-98)

02. Distributor's and Retail Dealer's Allowances for Motor Fuels. (This subsection only applies to sales of motor fuels made before December 1, 2007.) The distributor shall certify on his report that the one percent (1%) credit allowance has been afforded the retail dealer to cover the dealer's shrinkage, evaporation, spillage or handling losses for motor fuel. The State Tax Commission shall then allow the additional one percent (1%) deduction

unless a retail dealer claims that he did not receive the credit allowance. If such claim is made, the State Tax Commission shall require the licensed distributor to provide documentary proof that the one percent (1%) credit allowance has been afforded the retail dealer, and unless the distributor establishes that the credit has been afforded to the retail dealer, the deduction will be disallowed. In the case of sales of motor fuel to retail dealers, to establish that the allowance of one percent (1%) of the tax has been passed to the purchaser, the invoice must show either:

~~(4-6-05)~~(12-1-07)T

- a. That the amount of the allowance has been passed on; or (7-1-98)
- b. A statement that the allowance has been deducted in determining the price. (7-1-98)

03. **Distributor's Allowance for Motor Fuels.** (This subsection only applies to sales of motor fuels made on and after December 1, 2007.) The State Tax Commission will allow a two percent (2%) allowance granted in Section 63-2407, Idaho Code, to reimburse the licensed distributor for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty. (12-1-07)T

034. **Exported Fuel.** Motor fuels or other petroleum products claimed as exported from Idaho must be supported by records. Records must include the following: (7-1-98)

- a. Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (7-1-98)
- b. Common carrier shipping documents, bills of lading, manifests, and cost billings; or (7-1-98)
- c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or (7-1-98)
- d. Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. (7-1-98)
- e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records must be retained to prove the transfer of product out of Idaho. (7-1-98)

045. **Bad Debt Write-Off.** (This section only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.) A distributor may take a bad debt tax credit for fuel taxes paid on sales made after July 1, 1995. After the debt has been written off for income tax purposes in the distributor's records, the distributor may claim the credit on its fuel tax report for the month in which it made the bad debt adjustment. ~~(4-11-06)~~(12-1-07)T

- a. First-in/first-out method for partial payments. When a distributor receives partial payments on a fuel account that includes taxable and nontaxable fuel sales, the distributor must apply the payments to the unpaid fuel sales on a first-in/first-out basis before calculating the amount of the bad debt credit. (4-11-06)
- b. Proration of partial payments. When a distributor receives partial payments on a fuel account, before and/or after claiming a bad debt credit on its fuel tax report, the distributor must prorate the taxable and nontaxable fuel sales that occurred on the same day or on the same invoice for each such account. (4-11-06)
- c. Amount of credit allowed. A distributor may claim a credit or refund on its monthly fuels tax report for fuels tax that is found to be uncollectible. If both nontaxable and taxable fuel sales are included in the fuel account, a distributor may take credit only for the portion of the bad debt that represents unpaid fuels tax. (4-11-06)
- d. Multiple accounts - allocation of unspecified payments. If a distributor receives an unspecified payment from a customer that may be applied to an unpaid fuel account and nonfuel accounts, the distributor must allocate the payment to the various accounts upon receipt of the partial payment. If the distributor fails to make the allocation at the time the payment is received, the entire amount of the payment will be allocated to the customer's

fuel account for purposes of calculating the amount of the credit. (4-11-06)

e. Statute of limitations for bad debt claim. A distributor may receive a credit or refund of fuels taxes in Subsection 140.04 of this rule if a written claim is filed with the State Tax Commission within three (3) years from the date the tax was paid to the State Tax Commission. The State Tax Commission will review all such refund claims. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

160. AIRCRAFT ENGINE FUEL TAX (RULE 160).

All provisions of Chapter 24, Title 63, Idaho Code, and of these rules relating to ~~collection~~ the payment of the tax on gasoline shall be applicable to the ~~collection~~ payment of the aircraft engine fuel tax imposed by Section 63-2408, Idaho Code. ~~(6-23-94)~~(12-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

180. REFUNDS TO LICENSED FUEL DISTRIBUTORS (RULE 180).

01. Requirements of a Valid Refund Claim. Before the State Tax Commission can credit or refund motor fuels taxes or transfer fee, the licensed fuel distributor making the claim must establish both of the following: (12-1-07)T

a. The basis for the credit or refund claim, and (12-1-07)T

b. The amount of the credit or refund. (12-1-07)T

042. Refund Claim. Any licensed fuel distributor believing that he has paid motor fuels taxes or transfer fees in any amount more than properly imposed may file a claim with the State Tax Commission for a refund of such excess motor fuels taxes or transfer fee on forms prescribed by the State Tax Commission. The claim for refund must conform with the requirements of this rule. (3-15-02)

023. Refund Claim Documentation. The claim must be filed on a distributor's fuel tax report and must include the full name and address of the claimant and his fuel distributor's license number. If the claim is for a casualty loss, the claim must include a detailed statement of the reason the claimant believes a refund is due. The statement should include a description of the transactions, if any, to which the motor fuel tax relates and must be filed on a distributor's fuel tax report for the period for which the claimed excess motor fuel tax or transfer fee amount was paid. (4-11-06)

034. Refund as a Credit. A ~~claimant~~ licensed fuel distributor may claim a ~~bad debt credit~~ refund for motor fuels taxes or transfer fee as a credit against motor fuels taxes or transfer fee due on ~~the~~ his distributor's fuel tax report. ~~(3-15-02)~~(12-1-07)T

045. Statute of Limitation. No claim for refund will be allowed by the State Tax Commission if it is filed more than three (3) years from the time the payment of the claimed excess motor fuels taxes or transfer fee was made. The time the payment was made is the date upon which the distributor's fuel tax report relating to the payment was filed or was required to be filed, whichever occurred first. (3-15-02)

056. Appeal Procedures. No claim for refund may be filed relating to any motor fuels taxes or transfer fees that have been asserted by a Notice of Deficiency Determination. A taxpayer contending that motor fuels taxes or transfer fee have been erroneously or illegally collected by the State Tax Commission pursuant to a Notice of Deficiency Determination must seek a redetermination by using the appeal procedures required by law. (3-15-02)

067. Notice of Denial. All claims for refund or credit will be reviewed by the State Tax Commission's staff. If the staff concludes that all or any part of the claim should not be allowed to the claimant, notice of denial of the claim shall be mailed to the claimant by certified mail. The notice shall include a statement of the reasons for the denial. When seeking an appeal or redetermination of a denial of a claimed refund or credit, the notice of denial shall be the equivalent of a Notice of Deficiency Determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must do so by filing a petition for redetermination in the manner prescribed in Idaho Administration and Enforcement Rule 300, as incorporated herein by Rule 330 of these rules. Such a petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to, or served upon, the claimant. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

270. REFUND CLAIMS -- DOCUMENTATION (RULE 270).

01. Refunds to Consumers. Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double-faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following, in addition to the requirements outlined above: (4-11-06)

- a. A preprinted identification number; (4-11-06)
- b. Name and address of seller; (7-1-98)
- c. Name of purchaser; (7-1-98)
- d. Date of delivery; (7-1-98)
- e. Type of motor fuel; (7-1-98)
- f. Gallons invoiced; (7-1-98)
- g. Price per gallon; (7-1-98)
- h. At least one (1) of the following to establish that tax has been charged: (7-1-98)
 - i. The amount of Idaho state fuels tax; (7-1-98)
 - ii. The rate of Idaho state fuels tax; or (7-1-98)
 - iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

02. Indian-Owned Retail Outlet. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. ~~(4-11-06)~~(12-1-07)T

03. Corrected Invoices. No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided and retained by the seller for at least three (3) years from the date issued. (7-1-98)

04. Invoice Retention. The original invoices required by Subsection 270.01 of this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is

subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. (7-1-98)

05. Refund Documents. For refund claims under Section 63-2410(5)(c), Idaho Code, an original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. (7-1-98)

06. Records Required for Motor Fuels Tax Refunds. Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both taxable and nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax-paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (4-11-06)

a. Use of Fuel from a Single Storage Tank. Idaho tax-paid fuel (other than fuel purchased by persons who operate motor vehicles that are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 290 and Rule 292 of these rules) purchased and delivered into a single bulk storage tank and withdrawn for both nontaxable and taxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty-five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless an alternate percentage is requested by the taxpayer and authorized by the State Tax Commission. The request shall itemize anticipated uses by type of equipment based on previously experienced use. The State Tax Commission will refund taxes paid on the percentage of taxed fuel presumed to be exempt. If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the fuel purchases on which tax was paid must be retained to support each refund claim. The proration or another percentage granted by this paragraph cannot be used if you have separate storage tanks for undyed diesel and dyed diesel. (3-30-07)

b. Use of Fuel from Multiple Storage Tanks. When separate bulk storage tanks are maintained for both exempt and taxable uses, the seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Detailed withdrawal records will only be required if fuel is purchased by persons who operate motor vehicles that are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 290 and Rule 292 of these rules. All fuel invoices must be retained as required by Subsection 270.03 of this rule. Exempt fuel may not be used in motor vehicles registered or required to be registered. (3-30-07)

c. Use of Fuel for Other Than Bulk Storage. Fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than registered motor vehicles, must be identified on the purchase invoice. No other records will be required. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

292. CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES. (RULE 292).

01. Fuel Records Required for Refund Claims. Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules. (4-5-00)

02. Nontaxable Miles Defined. Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 130 of these rules regarding application

of Idaho Sales and Use Taxes.

(4-6-05)

03. Additional Nontaxable Roadways. Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the “standard MPG” for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway. (3-15-02)

04. Calculation. Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the presumed MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. ~~(3-30-07)~~(12-1-07)T

05. Power Take-Off and Auxiliary Engine Allowances (Allowances). Power-take-off (PTO) allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline-powered vehicles. (4-5-00)

a. Standard Allowances for Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle-mounted cement mixer or off-loading product. (4-6-05)

b. Standard Allowances for Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the registered motor vehicle. No claim for gasoline is allowed when gasoline is used by the registered motor vehicle’s main engine even to operate the motor vehicle’s PTO unit. (3-30-07)

c. Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: (4-5-00)

i. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(4-11-06)

- ii. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage compaction	25%	x	Gallons consumed

(3-15-02)

06. Nonstandard Allowances. A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. Taxpayers must send requests for approval to:

FUELS TAX POLICY
IDAHO STATE TAX COMMISSION
P. O. BOX 36
BOISE, ID 83722-0410

The Idaho State Tax Commission may request additional information or documentation as needed in order to make a determination on the request. (4-6-05)

07. Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees. The nontaxable gallons of fuel claimed by non-IFTA licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to mileage and fuel consumption (MPG) information. (4-11-06)

08. IFTA Licensees. Qualifying for Power Take-Off (PTO) And Auxiliary Engine Allowances (Allowances). Allowances listed in Subsection 292.05 of this rule or established as provided in Subsection 292.06 of this rule may be granted for IFTA licensees by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet. (4-6-05)

a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, recompute the fleet miles per gallon. Apply the new fleet miles per gallon to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. (4-5-00)

b. Additionally, a copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how allowance was calculated must be included as an attachment to the Form 75. All refund claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. (4-5-00)

c. IFTA licensees that used an assumed MPG when preparing their original IFTA return may not claim any additional refund. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (RULE 510).

01. Application. (6-23-94)

a. The Petroleum Transfer Fee applies to the receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$.01) for each gallon of petroleum or petroleum product received. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. (7-1-99)

b. The legal incident of the fee is on the distributor required to report it to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (6-23-94)

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products shall be determined according to Section 63-2403, Idaho Code. (7-1-99)

03. Exemption to Application of the Transfer Fee. The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

a. Returned to the refinery or pipeline terminal. (6-23-94)

b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 140 of these rules. (7-1-99)

c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (7-1-99)

d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

04. Casualty Loss and Shrinkage Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. The deductions allowed to motor fuel distributors for fuel lost by fire or similar casualty, see Section 63-2407(3), Idaho Code; and the two percent (2%) discount for ~~cost of collection and~~ loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; are not deductions applicable to the Petroleum Transfer Fee. ~~(7-1-99)~~(12-1-07)T

05. Petroleum and Petroleum Products. The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as ~~gasohol~~ E-10 and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), biodiesel, biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. ~~(4-11-06)~~(12-1-07)T

06. Licensed Distributors and Limited Licenses. Any person holding a distributor's license issued by the State Tax Commission under Section 63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is

not a licensed distributor nor required to obtain a license under Section 63-2427A, Idaho Code, shall apply to the State Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (7-1-99)

07. Reporting Requirements. (6-23-94)

a. Distributors licensed under Section 63-2427A, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the tax on the same fuel. (5-3-03)

b. Persons holding a limited license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (7-1-99)

c. The provisions of Rule 130 of these rules, apply to reports of the Petroleum Transfer Fee. (7-1-99)

08. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

09. Incorporation of Other Relevant Rules. Section 41-4909, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (4-6-05)

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0702

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, 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 October 17, 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:

Rule 170: Is being amended to be consistent with the passage of House Bill 249A, and to show that the special fuels tax is included in the price of undyed diesel fuel purchased by a consumer, and to reflect the EPA's changes to the allowable sulfur content in on-road and off-road diesel fuel. Remove all references to high-sulfur diesel fuel and add ultra-low sulfur diesel fuel.

Rule 250: is being amended to add a new paragraph to address a recent Idaho Supreme Court observation concerning refund claims. The court said that there are basically two issues to be resolved in a tax refund case: (1) whether there is any basis for asserting a right to a refund, and (2) the amount of the refund. Add the language above to a new Section 250.01 of this rule.

Rule 501: is being amended to be consistent with the law due to the passage of House Bill 99, to give notice to fuel distributors that the transfer fee will be reinstated and to Provide legal requirement for reinstatement and the date for reinstatement when set.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy Nilson, at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-0701

170. ADDITIONAL INFORMATION (RULE 170).

01. Undyed Diesel Fuel Used for Heating Purposes. The consumer must apply directly to the State Tax Commission for a refund of the special fuels taxes ~~paid~~ included in the purchase price on purchases of undyed diesel fuel which are used for heating a dwelling or building. The distributor may assist the consumer who is claiming a refund of the special fuels tax from the State Tax Commission by: (7-1-98)(____)

- a. Properly documenting information on the sales invoice; and (7-1-98)
- b. Providing the customer with a Form 75-HF "Heating Fuel Only." (7-1-98)

02. Red-Dyed ~~High~~ Low-Sulfur and Ultra Low-Sulfur Fuel. It is illegal to use red-dyed ~~high~~ low-sulfur and ultra low-sulfur fuel in the supply tank of a licensed, or required to be licensed, motor vehicle in this state unless the type of user is listed in Subsection 101.03 of this rule. (7-1-98)(____)

03. Red-Dyed Low-Sulfur and Ultra Low-Sulfur Fuel. The Internal Revenue Code does allow certain types of users to purchase tax-exempt red-dyed low-sulfur and ultra low-sulfur diesel fuel for use in their vehicles. The use of untaxed low-sulfur and ultra low-sulfur red-dyed diesel fuel in motor vehicles may be subject to Idaho's special fuels tax if the motor vehicles are not owned or leased, and operated by the state of Idaho, or any of its political subdivisions such as a city, county, or fire district. The red-dyed low-sulfur and ultra low-sulfur diesel fuel may be used: (4-11-06)(____)

- a. By state and local governments (political subdivisions of the state) for their exclusive use; (7-1-98)
- b. In the engine of a train; (7-1-98)
- c. In a school bus while the bus is engaged in the transportation of students and school employees; (7-1-98)
- d. In a vehicle (such as a ground servicing vehicle for aircraft) owned by an aircraft museum; (4-11-06)
- e. In a highway vehicle that is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income; (4-11-06)
- f. In a highway vehicle owned by the United States that is not used on a highway; (4-11-06)
- g. Exclusively by a nonprofit educational organization as defined in Internal Revenue Code Section 4221 (d)(5). (4-11-06)

04. Motor Fuels Exemption From Sales Tax. Any sale of motor fuels by any fuel distributor which is subject to motor fuels tax is exempt from Idaho sales tax under Chapter 36, Title 63, Idaho Code. If fuel, including dyed diesel fuel, is sold without the motor fuels tax, the sale is subject to Idaho state sales tax unless exempted under the Idaho Sales Tax Act and Rules. Sales of fuel delivered into bulk storage tanks, where the motor fuels tax is not charged, are exempt from Idaho sales tax only if the distributor has taken from the purchaser a sales tax exemption certificate in the manner required by IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules," Rule 128. However, if the fuel delivered into a bulk storage tank is used exclusively for home heating purposes, a sales tax exemption certificate is not required. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

250. REFUND CLAIMS -- REPORTING (RULE 250).

01. Requirements of a Valid Refund Claim. Before the Tax Commission can credit or refund motor fuels taxes, the taxpayer making the claim must establish both of the following: ()

a. The basis for the credit or refund claim, and ()

b. The amount of the credit or refund. ()

012. **Refund Claim.** Consumers claiming refunds of motor fuels taxes may file the claim together with their Idaho income tax return in the manner required for gasoline tax refunds, under Section 63-2410, Idaho Code, or in the case of claimants not required to file an income tax return, in the manner required by Section 63-2410(5)(b), Idaho Code. (7-1-98)

023. **Minimum Filing Period for Refund Claims.** Any taxpayer entitled to a refund of motor fuels taxes may file a refund claim which covers a time period of not less than one (1) month. (7-1-98)

034. **Refund May Be Claimed Only by Final Consumer.** Refunds of motor fuels taxes may be claimed on Form 75 by the person who purchased and used the motor fuels upon which the tax has been paid and for which a refund may be claimed. In the case of all partnerships and any corporations filing Idaho Form 41S, relating to S Corporations, any refund of motor fuels taxes paid by the partnership or S Corporation must be claimed by the partnership or corporation. The refund may not be applied to the individual returns filed by partners or shareholders. (7-1-98)

045. **Statute of Limitations.** For limitations of time for consumers to file refund claims for motor fuels taxes, see Section 63-2410(5)(c), Idaho Code. (5-3-03)

056. **Refund May Be Filed Separately.** Refunds of motor fuels taxes are claimed using Form 75 and must be filed by the final purchaser and user of the motor fuels in conjunction with that person's Idaho income tax return or separately as a stand-alone refund claim. (7-1-98)

067. **Refund Applied to Taxes Due.** Any refund due to a consumer will be applied first to any liability due under any law administered by the State Tax Commission, including any liability under IFTA, which is due and unpaid at the time the claim is filed. In addition, no refund will be paid if the claimant has failed to file any tax return required to be filed with the State Tax Commission. Any balance of the refund exceeding taxes due shall be paid as a refund to the entity filing the return. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

501. PETROLEUM TRANSFER FEE ~~SUSPENDED~~ REINSTATED (RULE 501).

The Petroleum Transfer Fee was suspended as of October 1, 1999. Imposition of the Petroleum Transfer Fee ~~may be~~ was reinstated on September 1, 2007, pursuant to Section 41-4909(10), Idaho Code. ~~Unpaid petroleum transfer fees imposed for periods before October 1, 1999, are still due and may be subject to audit, assessment and collection.~~ (4-6-05)()

IDAPA 35 - STATE TAX COMMISSION

35.01.09 - IDAHO KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-0701

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(s) 63-105 and 23-1323.

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 October 17, 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:

Rule 013: Change the word "wholesaler" to the statutorily defined term "distributor" and the words "unfit for beverage purposes" to "unfit for sale."

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7544

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0109-0701

013. BREAKAGE OR SPOILAGE (RULE 013).

01. Damage or Spoilage. When a wine container has been damaged or when wine becomes spoiled or has otherwise become unfit for ~~beverage purposes sale~~, the ~~wholesaler~~ distributor may claim a deduction of up to

seventy-five one hundredths of one percent (.75%) of the total inventory purchases during the month in which the breakage or spoilage occurred without requiring written approval from the Tax Commission. The taxpayer must maintain adequate records to verify actual breakage or spoilage claimed. (7-1-93)(____)

a. The Commission may at any time disallow the use of this method for any taxpayer. The Commission shall notify the taxpayer in writing that future destructions of breakage or spoilage will require written approval from the Commission. (7-1-93)

b. Any taxpayer who has received such written notice from the Commission must file a Request for Wine Destruction, Form WB-403, as set forth in Subsection 013.02 of this rule. (7-1-93)

02. Request for Wine Destruction. If the breakage or spoilage exceeds seventy-five one hundredths of one percent (.75%) of the total inventory purchases for the month, or the taxpayer has received written notice as discussed in Subsection 013.01.a. of this rule, the taxpayer must file a Request for Wine Destruction, Form WB-403, with the Commission ten (10) days prior to the proposed destruction date. (7-1-93)

a. The taxpayer must receive written approval from the Commission prior to destruction of any products referred to on the request. (7-1-93)

b. The Commission reserves the right to be present to observe the destruction of the wine and further reserves the right to delay the destruction until such time as ~~a mutual~~ an appointment can be arranged for the Commission or its representative to witness such destruction. (7-1-93)(____)

c. A credit for the amount of tax represented by the destroyed wine may be claimed by the taxpayer who has received written approval from the Commission to destroy unfit wine. (7-1-93)

IDAPA 35 - STATE TAX COMMISSION

35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

DOCKET NO. 35-0111-0701

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(s) 63-105 and 23-1323.

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 October 17, 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:

Rule 010: For the purposes of the Unclaimed Property Act, the words "tax" and "return" in the income tax administrative statutes mean "unclaimed property" and "report of unclaimed property."

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7544

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0111-0701

010. DEFINITIONS (RULE 010).

01. Credit Memo. Credit Memo shall include all types of refunds and credit balances unless specified

elsewhere in Title 14, Chapter 5, Idaho Code.

(7-1-93)

02. Owner. Owner includes a depositor in case of a deposit; a beneficiary or insured in case of a trust, an insurance policy or an annuity policy; the purchaser in case of travelers checks and money orders; a creditor, claimant, or payee in case of other instruments; and any other person having a legal or equitable interest in property subject to the Unclaimed Property Act. (7-1-93)

03. Return And Tax. Section 14-532, Idaho Code, incorporates several statutes from Title 63, Chapter 30, Idaho Code, into the Unclaimed Property Act. The words "return" and "tax" from Title 63, Chapter 30, Idaho Code, when applied to the Unclaimed Property Act shall be defined as follows: ()

a. The word "return" shall mean the report required by Section 14-517, Idaho Code. ()

b. The word "tax" shall mean property presumed abandoned as described by Section 14-502, Idaho Code. ()

IDAPA 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0701

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(s) 63-105, 63-2501, and 63-2553.

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 October 17, 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:

Rule 010 adds a definition of "person" to the cigarette and tobacco tax rules that is similar to the definition in the Sales Tax Act in Section 63-3607, Idaho Code.

Rules 013 and 014 both use the word "indicia" in reference to "cigarette tax stamps." The amendment changes the word "indicia" to "stamps."

Rule 022 should refer only to cigarettes for which a credit may be claimed. Paragraph 022.01.d. describes required documentation. The amendment reformats subsection 022.01.d. into a separate subsection 022.02.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7544

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0110-0701

010. DEFINITIONS (RULE 010).

01. Distributor. The term distributor, as defined by Section 63-2551, Idaho Code, includes persons who receive tobacco within this state for purposes of blending and/or repackaging. (7-1-93)

02. Manufacturer. The term manufacturer means a person who manufactures and sells cigarettes. The term manufacturer, as defined by Section 63-2551, Idaho Code, does not include persons who receive tobacco within this state for purposes of blending and/or repackaging. (7-1-93)

03. Person. The term "person" includes any individual, firm, partnership, LLC, venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit. ()

(BREAK IN CONTINUITY OF SECTIONS)

013. SHIPMENTS IN INTERSTATE COMMERCE (RULE 013).

Sales of cigarettes in the course of interstate commerce for purposes of Section 63-2505, Idaho Code, include only those sales where title is transferred outside the state of Idaho, or on U.S. military reservations, or on Indian reservations. (5-3-03)

01. Types of Conveyances. Shipments of cigarettes to U.S. military reservations or Indian reservations must be made by conveyance used in the normal operation of the wholesaler's business, or by common carrier hired by the wholesaler. (7-1-93)

a. In the case of shipment by common carrier, a copy of the bill of lading must be kept on file at the wholesaler's place of business for three (3) years. (7-1-93)

b. In the case of shipments by the wholesaler's conveyance, an itemized receipt must be obtained by the wholesaler bearing the signature of the receiver's representative and the wholesaler's employee making such delivery. Receipts must be serially numbered. (7-1-93)

02. Records of Unstamped Deliveries. In addition, all deliveries made outside the state and all deliveries made to U.S. military reservations or Indian reservations, and which are delivered without a state tax *indicia* stamps of another state must be listed in a chronological log by delivery date and customer. The log must contain the following information: delivery date, number of cigarettes delivered, and an itemized receipt number, as described in Subsection 013.01.b. of this rule. (7-1-93)()

014. SHIPMENTS DELIVERED ON INDIAN RESERVATIONS (RULE 014).

01. Shipments Without Idaho *Indicia* Stamps. Cigarette wholesalers may deliver cigarettes which do not have Idaho *indicia* stamps affixed to Idaho Indian reservations when: (7-1-93)()

a. The purchaser is an enrolled member of an Idaho Indian tribe. (7-1-93)

b. The purchaser is a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe. (7-1-93)

c. The purchaser is a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

02. Reservation Means Lands Which Are: (7-1-93)

a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government;

established by acts of the United States Congress; or established by formal decision of the Executive Branch of the United States. (7-1-93)

b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 014.02.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

03. Sales of Cigarettes to Non-Indians Within Reservation Boundaries. Sales of cigarettes by wholesalers to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation must have Idaho cigarette ~~indicia~~ stamps affixed. (7-1-93)(____)

04. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell cigarettes upon which Idaho cigarette indicia has not been affixed. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

022. EXEMPTIONS (RULE 022).

01. Credit for Taxes Paid. Tobacco distributors may claim a credit for taxes paid on tobacco products other than cigarettes that are: (7-1-93)

a. Sold and delivered to retailers at locations outside the state of Idaho; (5-3-03)

b. Sold and delivered to the United States Government on U.S. Military reservations located within Idaho; (7-1-93)

c. Sold and delivered to a purchaser within the boundaries of an Idaho Indian reservation when the purchaser is an enrolled member of an Idaho Indian tribe; a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe; or a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

~~02.~~ **Documentation.** Distributors must maintain adequate records to show the validity of credits claimed under this subsection, including delivery records and invoices. If the distributor is selling to an enrolled member of an Indian tribe he should keep a copy of the purchaser's tribal identification card in his files. If he is selling to a tribally owned entity, he should keep a certificate of tribal ownership or some other form of clear and convincing evidence that the purchaser is a business wholly owned and operated by an Idaho Indian tribe. (3-30-07)(____)

023. Indian Reservations. Indian reservation means lands which are: (7-1-93)

a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; established by formal decision of the Executive Branch of the United States; or (7-1-93)

b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 022.02.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

034. Non-Indian Enterprises. Tobacco distributors may not claim a credit for taxes paid on tobacco products sold to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation. (7-1-93)

045. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell tobacco products upon which tobacco products tax has not been paid. (7-1-93)

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0701

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(s) 63-105 and 63-3039, 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 October 17, 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:

Rule 155: Amend Administration and Enforcement Rule 155 to remove references to code sections that are no longer applicable.

Rule 310: Idaho Code section 63-3045 establishes a formula for calculating the yearly interest rate applied to deficiencies of tax and refunds. The rates are published in Administration and Enforcement Rule 310. Amend Administration and Enforcement Rule 310 to add the interest rate for calendar year 2008.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

Janice Boyd, Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7544

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0701

155. TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY (RULE 155).
Sections 63-115, 63-3039, and 9-328, ~~67-2351 through 67-2357~~, Idaho Code. (7-1-99)()

01. Tax Returns Filed Electronically. Pursuant to Section 63-115, Idaho Code, a taxpayer may file a

tax return with the Tax Commission electronically only when the Tax Commission has established and implemented procedures permitting electronic filing of a specific tax return. A return may only be filed electronically by using the procedures and formats established by the Tax Commission for the particular return. (7-1-99)

02. Signatures. See Rule 150 of these rules. (7-1-99)

03. Acknowledgment of Data Transmissions. Persons filing returns by electronic data stream may be sent an acknowledgment of receipt of a successfully transmitted return. An acknowledgment means only that the Tax Commission received the return. An acknowledgment is not a finding by the Tax Commission about the correctness of the return. If any transmission is received in an unintelligible or garbled form and the Tax Commission cannot identify the taxpayer, no acknowledgment will be sent. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

310. INTEREST RATES (RULE 310). Sections 63-3045 and 63-3073, Idaho Code. (3-20-04)

01. In General. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year is determined in accordance with Section 63-3045, Idaho Code. The rates starting with the rate applicable at July 1, 1981, and the Internal Revenue Service Revenue Rulings, if applicable for the calculation of the rate, are listed in Subsection 310.02 of this rule. These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code. (4-6-05)

02. Idaho Interest Rates and Applicable Revenue Rulings.

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
July 1, 1981, through December 31, 1993	12% simple interest	Not Applicable
Calendar Year 1994	7% simple interest	Revenue Ruling 93-64
Calendar Year 1995	9% simple interest	Revenue Ruling 94-61
Calendar Year 1996	8% simple interest	Revenue Ruling 95-67
Calendar Year 1997	9% simple interest	Revenue Ruling 96-49
Calendar Year 1998	8% simple interest	Revenue Ruling 97-41
Calendar Year 1999	7% simple interest	Revenue Ruling 98-50
Calendar Year 2000	8% simple interest	Revenue Ruling 99-41
Calendar Year 2001	8% simple interest	Revenue Ruling 2000-45
Calendar Year 2002	7% simple interest	Revenue Ruling 2001-49
Calendar Year 2003	5% simple interest	Revenue Ruling 2002-61
Calendar Year 2004	6% simple interest	Revenue Ruling 2003-107
Calendar Year 2005	6% simple interest	Revenue Ruling 2004-69
Calendar Year 2006	6% simple interest	Revenue Ruling 2005-57
Calendar Year 2007	7% simple interest	Revenue Ruling 2006-44
Calendar Year 2008	7% simple interest	Revenue Ruling 2007-57

(3-30-07)()

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.01 - ADJUDICATION RULES

DOCKET NO. 37-0301-0701 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 24, 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 42-1805(8), 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 October 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: Rule change is necessary to make rules consistent with 2006 and 2007 legislative amendments to Chapter 14, Title 42, Idaho Code, update outdated citations to Idaho Code, and reduce number of claim forms from two to one.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The rule itself does not impose or increase a fee or charge. The 2006 legislative amendments to Section 42-1414, Idaho Code, revised the fee structure for filing a notice of claim to a water right with IDWR. The proposed rule change makes the fee structure cited in the adjudication rules conform to the new fee structure in Section 42-1414, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the primary purpose of rule change is to make the rules consistent with existing Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Shaff, Adjudication Bureau Chief, at (208) 287- 4800.

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 October 25, 2007.

DATED this 23rd day of August, 2007.

Donald V. Shaff
Adjudication Bureau Chief
Idaho Department of Water Resources
322 E. Front St., Boise
PO Box 83720, Boise, Idaho 83720-0098
Ph: (208) 287-4800 / Fax: (208) 287-6700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0301-0701

001. TITLE AND SCOPE (RULE 1).

01. **Title.** The title of this chapter is IDAPA 37.03.01, "Adjudication Rules." (8-24-07)T

02. **Scope.** The purpose of these rules is to implement statutes governing the filing of notices of claims to water rights acquired under state law and the collection of fees for filing notices of claims to water rights acquired under state law in general adjudications, as provided in Sections 42-1409(2), ~~(4) and (8)~~, 42-1414, and 42-1415, Idaho Code. ~~(7-1-93)~~(8-24-07)T

002. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

01. **AF.** An acre foot (feet). (7-1-93)

02. **Amendment Fee.** The additional fee payable at the time of filing an amendment to a claim, as provided in Section ~~42-1409(4)~~ 42-1414(2), Idaho Code. ~~(7-1-93)~~(8-24-07)T

~~**03.** **Application.** An application to appropriate water, as provided in Sections 42-202 or 42-1503, Idaho Code. (7-1-93)~~

043. **Aquaculture.** The use of water for propagation of fish, shell fish, and any other animal or plant product naturally occurring in an underwater environment. (7-1-93)

054. **Aquaculture Fee.** The variable fee payable for aquaculture use, as provided in Section ~~42-1414(2)(e)~~ 1414(1)(b)(iii), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar. ~~(7-1-93)~~(8-24-07)T

065. **CFS.** Cubic foot (feet) per second. (7-1-93)

076. **Claim.** A notice of claim to a water right acquired under state law, as provided in Section ~~42-1409(2)~~ 42-1409(4), Idaho Code. ~~(7-1-93)~~(8-24-07)T

087. **Department.** The Idaho Department of Water Resources. (7-1-93)

098. **Director.** The Director of the Idaho Department of Water Resources. (7-1-93)

09. **Domestic Use.** Domestic use as defined in Section 42-1401A(4), Idaho Code. (8-24-07)T

~~**10.** **Extended Payment Plan.** The installment schedule for payment of fees for filing claims, as provided in Section 42-1414(3), Idaho Code. (7-1-93)~~

~~**11.** **Fire Fighting Purposes.** The use of water in times of emergency: to extinguish an existing fire on private or public lands, facilities, or equipment; to prevent an existing fire from spreading to private or public lands, facilities or equipment within the vicinity of and endangered by an existing fire; and by fire fighting personnel engaged in fighting an existing fire. Fire fighting purposes does not include the use of water to prevent a fire from occurring in the future, the use of water for domestic purposes in regularly maintained firefighting stations, or the storage of water for fighting future fires. (7-1-93)~~

120. **Flat Fee.** The per claim fee for filing claims, as provided in Section ~~42-1414(1)~~ 42-1414(1)(a), Idaho Code. ~~(7-1-93)~~(8-24-07)T

131. Late Fee. The additional fee payable for the filing of late claims, as provided in Section ~~42-1409(8)~~ 42-1414(3), Idaho Code. ~~(7-1-93)~~(8-24-07)T

~~**14. Long Claim Form.** The department's form number 42-1409(2)a, entitled "Notice of Claim to a Water Right Acquired Under State Law."~~ ~~(7-1-93)~~

152. Per Acre Fee. The variable fee for irrigation use, as provided in Section ~~42-1414(2)(a)~~ 42-1414(1)(b)(i), Idaho Code, which shall be calculated for each acre and fraction thereof rounded to the next one-half (1/2) acre. ~~(7-1-93)~~(8-24-07)T

163. Per Cfs Fee. The variable fee payable for other uses, as provided in Section ~~42-1414(2)(d)~~ 42-1414(1)(b)(iii), (iv), and (ev), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar. ~~(7-1-93)~~(8-24-07)T

~~**174. Per Kilowatt Fee.** The variable fee payable for power generation use, as provided in Section 42-1414(2)(b)~~ 42-1414(1)(b)(ii), Idaho Code, which shall be calculated for each kilowatt and fraction thereof. ~~(7-1-93)~~(8-24-07)T

~~**18. Report.** The report of the director, as provided in Section 42-1411(1), Idaho Code.~~ ~~(7-1-93)~~

~~**195. Short State Law Claim Form.** The department's form number 42-1409(2)b, entitled "Notice of Claim to a Water Right Acquired Under State Law for Domestic and/or Stockwater Purposes."~~ as provided in Section 42-1409(4), Idaho Code. ~~(7-1-93)~~(8-24-07)T

16. Stock Watering Use. Stock watering use as defined in Section 42-1401A(11), Idaho Code. ~~(8-24-07)T~~

~~**2017. Total Fee.** The fee payable for filing a claim, which consists of the flat fee plus any applicable variable fee or late fee.~~ ~~(7-1-93)~~(8-24-07)T

~~**218. Variable Fee.** The fee payable for filing claims in addition to the flat fee, as provided in Section 42-1414(2)~~ 42-1414(1)(b), Idaho Code. ~~(7-1-93)~~(8-24-07)T

~~**22.19 Water Delivery System.** All structures and equipment used for diversion, storage, transportation, and use of water from the water source to and including each place of use.~~ ~~(7-1-93)~~

~~**230. Water Delivery Organization.** An irrigation district, a water utility, a municipality, or any similar claimant of a water right who diverts water pursuant to the water right claimed and delivers the water to others who make beneficial use of the water diverted by the water delivery organization pursuant to the water right claimed by the water delivery organization.~~ ~~(7-1-93)~~

011. -- 024. (RESERVED).

025. GENERAL (RULE 25).

01. Requirement to Pay. All persons filing claims to water rights acquired under state law or amendments to claims to water rights acquired under state law shall be required to pay filing fees as set forth by statute and these rules. ~~(7-1-93)~~

02. Method of Payment. Fees shall be paid in legal tender of the United States; or by money order, certified check, cashier's check, ~~or~~ personal check, or by debit or credit card either at IDWR or by electronic payment on-line payable to the department in legal tender of the United States. ~~Credit card payments and~~ ~~Two-party checks~~ will not be accepted. ~~(7-1-93)~~(8-24-07)T

03. Personal Check. If a personal check in payment of a flat fee, a variable fee, or a late fee, ~~and/or the first payment on an extended payment plan~~ is returned unpaid to the department, the claims covered by the returned check will be rejected and returned to the claimant. If a personal check in payment of an amendment fee is returned

unpaid to the department, the amended claim will be rejected and returned to the claimant, but the original claim will still be in effect. ~~If a personal check in payment of the second through fifth payments on an extended payment plan is returned unpaid to the department, the returned check will be treated as nonpayment pursuant to Rule Subsection 040.05.~~ (7-1-93)(8-24-07)T

04. Time of Payment. Flat fees and variable fees shall be payable to the department at the time of filing a claim, ~~except in the case of extended payment plans otherwise provided for by statute and these rules.~~ Amendment fees shall be payable to the department at the time of filing the amended claim. Late fees shall be payable at the time of filing the late claim. (7-1-93)(8-24-07)T

05. Government Voucher. Fees payable by government agencies (other than agencies of foreign governments) may be paid when due by government voucher. If full payment of the voucher is not received within forty-five (45) days of the date the voucher is received, the unpaid voucher will be treated as a returned check as provided in Rule Subsection 025.03. (7-1-93)

~~**06. Insufficient Paid Fee.** If a fee paid is later determined by the director to be insufficient, the director will send a notice of balance due by certified mail to the claimant at the most recent address shown by department records, stating the balance due and that the balance will be due within thirty (30) days of the date the notice is mailed. If the balance is not received by the date set forth in the notice, the balance due will be treated as an extended payment plan in default as set forth in Rule Subsections 040.05.e. and 040.05.d. A notice of balance due shall not be issued after filing of the director's report for the claim for which the fee was paid, or more than four (4) years after the date the insufficient payment was received by the director, whichever is later. (7-1-93)~~

~~**076. Rejection of Claim.** Claims based upon an application to appropriate water that has not been approved by the department pursuant to Sections 42-204 or 42-1503, Idaho Code, shall not be accepted, and any fees paid shall be that are filed without the correct filing fee will be rejected and returned to the claimant. (7-1-93)(8-24-07)T~~

~~**087. Fire-Fighting.** A claim is not required to be filed for water used solely for fire fighting purposes. The report will contain general conclusions of law recognizing and protecting the use of water for fire fighting purposes absent a decree, license, or permit for the use of water for fire fighting purposes. to extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire pursuant to Section 42-201(3), Idaho Code. A claim is required for the use of water for domestic purposes in regularly maintained firefighting stations and for the storage of water for fighting future fires. (7-1-93)(8-24-07)T~~

~~**09. In-Stream Livestock Use.** A claim is not required to be filed for water used solely for in-stream livestock use as defined by Section 42-113, Idaho Code. The report will contain general conclusions of law stating that: (7-1-93)~~

~~**a.** In the consideration of applications for permits to appropriate water for other purposes, the director shall impose such reasonable conditions as are necessary to protect prior water rights for in-stream livestock use; and (7-1-93)~~

~~**b.** In the administration of water rights, the director shall recognize and protect water rights for in-stream livestock use, according to priority, as the director recognizes and protects water rights for other purposes. (7-1-93)~~

~~**408. Examples.** Examples set forth in these rules are solely for purposes of illustration and do not have the effect of rules. (7-1-93)~~

026. -- 029. (RESERVED).

030. FLAT FEES (RULE 30).

01. Small Domestic Use and Stock Watering Use Based on Permit, License, Decree, or Statutory Claim. A flat fee of ~~twenty-five~~ fifty dollars (\$250) shall be payable for each domestic use and/or stock watering use

claim based on permit, license, decree or statutory claim, where the total amount of water diverted does not exceed thirteen thousand (13,000) gallons per day, ~~that is limited to:~~ (7-1-93)(8-24-07)T

- ~~a. Domestic use as defined by Section 42-1401A(5), Idaho Code; (7-1-93)~~
- ~~b. Stock watering use as defined by Section 42-1401A(12), Idaho Code; or (7-1-93)~~
- ~~c. Domestic use as defined by Section 42-1401A(5), Idaho Code, and stock watering use as defined by Section 42-1401A(12), Idaho Code. (7-1-93)~~
- ~~d. Domestic use as defined by Section 42-1401A(5), Idaho Code, includes single-ownership, multiple-family domestic uses, so long as the total amount of water diverted for all households pursuant to a single water right does not exceed thirteen thousand (13,000) gallons per day. (7-1-93)~~

02. Exception Other Claims. A flat fee of fifty one hundred dollars (\$5100) shall be payable for each claim that does not meet the definition criteria of Rule Subsection 030.01. (7-1-93)Q

031. -- 034. (RESERVED).

035. VARIABLE FEES (RULE 35).

01. General. For each claim not meeting the definition criteria of Rule ~~Subsection 00730.01,~~ there may be a variable fee in addition to the flat fee. (7-1-93)(8-24-07)T

02. Per Acre Fee. (7-1-93)

a. A per acre fee of two dollars (\$2) per acre shall be required for claims for irrigation use. (8-24-07)T

ab. The per acre fee shall only be charged once against a particular acre, regardless of the number of claims filed for the irrigation of that acre or the number of claimants filing claims for the irrigation of that acre. (7-1-93)

i. Example 1: A claimant submits two (2) claims, one (1) for irrigation of sixty (60) acres, and one (1) for a supplemental water right to irrigate the same sixty (60) acres with a later priority. The total fee for both claims consists of two (2) flat fees of fifty one hundred dollars (\$5100) each, plus one (1) ~~sixty one hundred twenty~~ dollars (\$6120) variable fee based upon sixty (60) acres, for a total of ~~one three hundred sixty two~~ dollars (\$16320). (7-1-93)(8-24-07)T

bc. The per acre fee shall be payable by the first person to file a claim for the irrigation of a particular acre. (7-1-93)

i. Example 2: A water delivery organization files a claim for irrigation of lands within the service area of the water delivery organization, and pays the filing fee. An individual files a claim for a supplemental water right for sixty (60) acres of land that is claimed as irrigated acreage by the water delivery organization. The total fee paid directly by the individual is the fifty one hundred dollar (\$5100) flat fee; the variable per acre fee has already been paid by the water delivery organization. (7-1-93)(8-24-07)T

ed. The per acre fee for an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or irrigation districts organized and existing as such under the laws of the state of Idaho, or for beneficial use by more than five (5) water users in an area of less than twenty-five thousand (25,000) acres shall be determined based upon the acreage claimed to be irrigated by the project or irrigation district within the boundaries of the project or irrigation district. (7-1-93)(8-24-07)T

03. Per Kilowatt Fee. (7-1-93)

a. A per kilowatt of capacity (manufacturer's nameplate rating) fee of seven dollars (\$7) per kilowatt

shall be required for claims for power use. (8-24-07)T

~~a~~**b.** The per kilowatt fee shall be determined based upon the total generating capacity of all generators in which the water right claimed is used. (7-1-93)

~~b~~**c.** The total per kilowatt fee for all claims filed for a single hydropower facility shall not exceed the per kilowatt fee for the total generating capacity of all generators in the hydropower facility. (7-1-93)

i. Example 3: A claimant submits three (3) claims for water used in one (1) power plant. The power plant has four (4) generators, each with a manufacturer's nameplate rating of ninety (90) kilowatt capacity. The total fee for all three (3) claims consists of three (3) flat fees of ~~forty one hundred~~ fifty one hundred dollars (\$~~5100~~ 5100) each, plus a variable fee of ~~one two thousand two hundred sixty two~~ one two thousand two hundred twenty dollars (~~\$1,260 2,520~~ \$1,200 2,400) (4 x 90 x ~~3.50 7.00~~ 7.00), for a total of ~~one two thousand four hundred ten~~ one two thousand two hundred twenty dollars (~~\$1,410 2,820~~ \$1,400 2,800). (7-1-93)(8-24-07)T

04. Per CFS Fee. (7-1-93)

~~a.~~ A per cfs fee of twenty dollars (\$20) per cfs for aquaculture shall be required. A per cfs fee of two hundred dollars (\$200) per cfs for all other uses except irrigation, power, domestic and stock watering uses meeting the criteria of Rule 010, shall be required. (8-24-07)T

~~a~~**b.** For a claim to water for more than one (1) public purpose, the per cfs fee shall only be charged once per cfs claimed. Public purposes shall include public in-stream flows, public lake level maintenance, wildlife, aesthetic beauty, and recreation. (7-1-93)

i. Example 4: A claimant files a claim to ten (10) cfs for a public in-stream flow for wildlife, recreation, and aesthetic purposes. The variable fee is ~~one two thousand~~ one thousand dollars (~~\$2,000~~ \$1,000) and the flat fee is ~~forty one~~ one hundred dollars (~~\$5100~~ \$100), for a total fee of ~~one two thousand~~ one thousand dollars (~~\$1,050 2,100~~ \$1,100 2,100). (7-1-93)(8-24-07)T

~~b~~**c.** If there is a seasonal variation in the number of cfs claimed, the per cfs fee shall be based upon the maximum number of cfs claimed for any period during a single calendar year. (7-1-93)

~~e~~**d.** The per cfs fee shall apply to claims for water quality improvement, recreation, aesthetic purposes, and any other purpose not expressly listed at Section ~~42-1414(2)~~ 42-1414(1), Idaho Code, except as otherwise provided by these rules. (7-1-93)(8-24-07)T

05. Claims Including Storage. (7-1-93)

~~a.~~ The variable fee for a claim that includes storage shall be based upon the ultimate use of the water stored. If the claim states purposes other than diversion to storage, storage, and diversion from storage, the total variable fee will be determined as provided in Rule ~~Subsection~~ Section 035.06. (7-1-93)(8-24-07)T

~~b.~~ ~~Ground water recharge is not an ultimate use and n~~No variable fee shall be payable for water claimed for ground water recharge purposes. (7-1-93)(8-24-07)T

~~c.~~ For purposes of determining the per cfs fee for amounts of water claimed in af, one (1) cfs equals one and ninety-eight one-hundredths (1.98) af per day of diversion to storage. (7-1-93)

~~d.~~ No variable fee shall be payable for minimum by-pass flows. (7-1-93)

06. Multiple Purpose Claims. If a claimant claims more than one (1) purpose of use on a single claim, the variable fee will be the total of the variable fees payable for each purpose of use. (7-1-93)

~~a.~~ Example 5: A claimant files a claim for twenty (20) cfs of water, which is first used for power purposes in a plant with a one hundred fifty (150) kilowatt capacity, and is then used for irrigation of one thousand (1,000) acres of land. The variable fee is ~~one two thousand~~ one thousand dollars (~~\$2,000~~ \$1,000) (per acre fee) plus ~~five hundred twenty-five~~ one thousand fifty dollars (~~\$521,050~~ \$1,050) (per kilowatt fee), for a total variable fee of ~~one three thousand five hundred~~ one thousand five hundred dollars (~~\$1,050 2,100~~ \$1,050 2,050). (7-1-93)(8-24-07)T

~~twenty-five fifty~~ dollars (\$~~1,525 3,050~~). The total fee is ~~one three~~ thousand ~~five one~~ hundred ~~seventy-five fifty~~ dollars (\$~~1,575 3,150~~), consisting of the ~~one three~~ thousand ~~five hundred twenty-five fifty~~ dollars (\$~~1,525 3,050~~) variable fee and the ~~fifty one hundred~~ dollar (\$~~5100~~) flat fee. ~~(7-1-93)(8-24-07)T~~

b. Example 6: A claimant files a claim for twenty (20) cfs of water, half of which is claimed for commercial purposes, half of which is claimed for irrigation of five hundred (500) acres. The variable fee is ~~two thousand dollars (\$2,000) (per cfs fee) plus one thousand dollars (\$1,000) (per cfs fee) plus five hundred dollars (\$500) (per acre fee)~~ for a total variable fee of ~~one three~~ thousand ~~five hundred~~ dollars (\$~~1,500 3,000~~). The total fee is ~~one three~~ thousand ~~five one~~ hundred ~~fifty~~ dollars (\$~~1,550 3,100~~), consisting of the ~~one three~~ thousand ~~five hundred~~ dollar (\$~~1,500 3,000~~) variable fee and the ~~fifty one hundred~~ dollar (\$~~5100~~) flat fee. ~~(7-1-93)(8-24-07)T~~

07. Exceptions. No variable fee shall be payable for claims or portions of claims for fire-fighting purposes; ~~if a claim is required under Rule 025.07~~ or for domestic use and/or stock watering use meeting the definitions of ~~domestic use and stock watering use in Rule 0310.01~~. ~~(7-1-93)(8-24-07)T~~

a. Example 7: A claimant files a claim for 5.04 cfs of water based upon a license, five (5) cfs of which is claimed for irrigation of two hundred fifty (250) acres, two one-hundredths (.02) cfs of which is claimed for domestic use, two one-hundredths (.02) cfs of which is claimed for stock watering. The variable fee is ~~two~~ five hundred ~~fifty~~ dollars (\$~~2500~~) and the flat fee is ~~fifty one hundred~~ dollars (\$~~5100~~), for a total fee of ~~three six~~ hundred dollars (\$~~3600~~). ~~(7-1-93)(8-24-07)T~~

~~036.—039. (RESERVED).~~

040. EXTENDED PAYMENT PLANS (RULE 40).

01. Eligibility. ~~A claimant is eligible for an extended payment plan where the total fee for all claims filed by that claimant in a single day at a single claims-taking location equals or exceeds one thousand dollars (\$1,000).~~ ~~(7-1-93)~~

02. Payment Schedule. ~~(7-1-93)~~

a. ~~An extended payment plan shall consist of five (5) annual payments. An extended payment plan is not available for a shorter term or with more frequent payments, but early payments will be accepted as provided in Rule Subsection 040.04.~~ ~~(7-1-93)~~

b. ~~Extended payments shall be made in equal annual payments of principal. The first principal payment shall be due upon filing the claim or claims. The remaining four (4) payments will be due on the first day of the same month during the following four (4) years. Interest will be calculated annually from the day after the due date for the previous principal payment to and including the due date for the next principal payment, and will be due upon the due date for the next principal payment.~~ ~~(7-1-93)~~

i. ~~Example 8: A claimant files claims December 17, 1987, and the total fees are five thousand dollars (\$5,000). One thousand dollars (\$1,000) will be due December 17, 1987. The second payment will be due December 1, 1988, and will be one thousand dollars (\$1,000) plus three hundred eighty-two dollars and forty-seven cents (\$382.47) (349 days interest on \$4,000), for a total of one thousand three hundred eighty-two dollars and forty-seven cents (\$1,382.47). The third payment will be due on December 1, 1989, and will be one thousand dollars (\$1,000) plus one (1) year's interest on three thousand dollars (\$3,000), for a total of one thousand three hundred dollars (\$1,300). The fourth payment will be due December 1, 1990 and will be one thousand dollars (\$1,000) plus one (1) year's interest on two thousand dollars (\$2,000), for a total of one thousand two hundred dollars (\$1,200). The fifth payment will be due on December 1, 1991, and will consist on one thousand dollars (\$1,000) plus one (1) year's interest on one thousand dollars (\$1,000), for a total of one thousand one hundred dollars (\$1,100).~~ ~~(7-1-93)~~

03. Notice of Payment Due. ~~At least fourteen (14) days prior to the date an extended payment is due, the director will send a notice of payment due by regular mail to the claimant at the most recent address shown by department records.~~ ~~(7-1-93)~~

04. Early Payments. ~~Early payments will be accepted. When a payment due is received prior to the~~

~~fourteenth (14th) day before the due date, interest will be recalculated based on the amount of interest accrued daily from the day after receipt of the next previous payment to and including the date the early payment is received. Any overpayment resulting from the recalculation of interest due will be applied to the principal amount due the following year, unless the early payment is the last payment, in which case any overpayment will be refunded to the claimant.~~ (7-1-93)

~~**05. Late Payments.**~~ (7-1-93)

~~**a.** When a payment due is not received by the 14th day following the due date, interest will accrue daily on the amount due from the day after the due date to and including the date the payment is received at the annual interest rate set forth at Section 42-1414, Idaho Code. When the payment due is received, it will be applied first to interest (including late interest) and then to principal, and the next year's payment will be recalculated accordingly, unless the late payment is the last payment due. If the late payment is the last payment due, the director will send a notice of balance due by regular mail to the claimant at the most recent address shown by department records, stating that the balance will be due within thirty (30) days of the date the notice is mailed.~~ (7-1-93)

~~**b.** When a payment due is not received by the 30th day following the due date, the director will send a notice of default by certified mail to the claimant at the most recent address shown by department records.~~ (7-1-93)

~~**c.** When a payment due is not received by the 60th day following the due date, and the director has not filed the director's report, the director may reject and return all claims covered by the extended payment plan in default.~~ (7-1-93)

~~**d.** When a payment due is not received by the 60th day following the due date, and the director has filed the director's report, the director may:~~ (7-1-93)

~~**i.** Issue a cease and desist order directing the claimant not to divert any water pursuant to the claims covered by the extended payment plan in default until all amounts due have been received by the department;~~ (7-1-93)

~~**ii.** Obtain an injunction from the district court conducting the general adjudication directing the claimant not to divert any water pursuant to the claims covered by the extended payment plan in default until all amounts due have been received by the department; and~~ (7-1-93)

~~**iii.** Reject and return the claims covered by the extended payment plan and amend the report to recommend the water right represented by the claims covered by the extended payment plan as unclaimed.~~ (7-1-93)

~~**06. Splitting Extended Payment Plans.**~~ (7-1-93)

~~**a.** When a single extended payment plan is established that covers more than one (1) claim, the extended payment plan may later be split into two (2) extended payment plans, each of which covers a portion of the claims previously covered by the single extended payment plan. If the claims covered by an extended payment plan created by the split would not have qualified for an extended payment plan at the time the claims were filed, the entire balance for the claims covered by the extended payment plan created by the split will be due at the time the extended payment plan is split.~~ (7-1-93)

~~**b.** A single claim may not be split into two (2) extended payment plans unless the water right claimed has been split by conveyance to different owners. If the portion of the claim covered by an extended payment plan created by the split would not have qualified for an extended payment plan at the time the claim was filed, the entire balance of the fee for that portion of the claim will be due at the time the extended payment plan is split.~~ (7-1-93)

~~**c.** When a single extended payment plan has been established that covers more than one (1) claim, the claimant may choose to pay the balance on less than all of the claims, leaving the balance on the remaining claims to be paid on the extended payment plan, unless the remaining claims would not have qualified for an extended payment plan at the time of filing.~~ (7-1-93)

~~**07. Partial Payments.**~~ (7-1-93)

~~a.~~ *Partial payments (payment of less than the full amount due on an extended payment) will be applied first to interest due and any remainder will be applied to principal.* (7-1-93)

~~b.~~ *Partial payments on extended payment plans covering more than one (1) claim will be divided among the claims in proportion to the amount due on each claim, except as provided in Rule Subsections 040.07.c. and 040.07.d.* (7-1-93)

~~c.~~ *When a single extended payment plan has been established that covers more than one (1) claim, the claimant may choose to make a payment on less than all of the claims, and allow the other claims to be rejected and returned, if the claims on which a payment is made would have qualified for an extended payment plan at the time of filing.* (7-1-93)

~~d.~~ *When a single extended payment plan has been established that covers more than one (1) claim, the claimant may choose to pay the balance on less than all of the claims, and allow the other claims to be rejected and returned.* (7-1-93)

~~04136.~~ -- 044. (RESERVED).

045. AMENDMENT FEES (RULE 45).

~~01.~~ Recalculated Fee. When a claimant files an amendment to a claim, the total fee shall be recalculated as if the amended claim were the original claim. If the total fee as recalculated is greater than the total fee paid at the time the claim was filed, the amendment fee shall be the difference between the two (2) amounts. No refund shall be made if the total fee as recalculated is less than the total fee paid at the time the claim was filed. (7-1-93)(8-24-07)T

~~02.~~ *Determining Eligibility. The amendment fee shall not be included for purposes of determining eligibility for an extended payment plan, and the amendment fee may not be included in an extended payment plan.* (7-1-93)

046. -- 049. (RESERVED).

050. LATE FEES (RULE 50).

01. **Late Fee Payable.** A late fee shall be payable when a claim is filed after the date set forth in the first commencement notice mailed to the claimant or the claimant's predecessor in interest pursuant to Sections ~~42-1408A(2) and 42-1414(3)~~, Idaho Code. (7-1-93)(8-24-07)T

~~02.~~ *Determining Eligibility. The late fee shall not be included for purposes of determining eligibility for an extended payment plan, and the late fee may not be included in an extended payment plan.* (7-1-93)

~~032.~~ **Waiver.** The late fee may be waived by the director for good cause shown. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

060. SUFFICIENCY OF CLAIMS (RULE 60).

01. **Single Claim.** A single claim may describe only one (1) water right. A claim that describes more than one (1) water right will be rejected and returned along with any fees paid, and must be refiled as multiple claims except claims based on both state law and federal law. (7-1-93)(8-24-07)T

~~02.~~ *Claim Forms.* (7-1-93)

~~a. Claims meeting the definition of Rule Subsection 030.01, other than claims to domestic and/or stock watering use that include storage or instream stock watering use, may be filed on the short claim form. (7-1-93)~~

~~b. Claims not meeting the definition of Rule Subsection 030.01, and claims to domestic and/or stock watering use that include storage or instream stock watering use, shall be filed on the long claim form. (7-1-93)~~

032. ~~Short~~ State Law Claim Form -- Minimum Requirements. Claims filed on the ~~short~~ state law claim form shall contain the following information: ~~(7-1-93)~~(8-24-07)T

a. Name, Address and Phone Number of Claimant. The name, address, and phone number of the claimant and all co-claimants claiming the water right jointly with the claimant shall be listed at item one (1) of the form. (7-1-93)

b. Date of Priority. The date of priority shall be listed at item two (2) of the form, and shall include month, day and year. Only one (1) priority may be claimed stated. If more than one (1) priority date is claimed stated, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. ~~(7-1-93)~~(8-24-07)T

c. Source of Water Supply. The source of water supply shall be stated at item three (3) of the form. (7-1-93)

i. For surface water sources, the source of water shall be identified by the official name listed on the U.S. Geological Survey Quadrangle map. If no official name has been given, the name in local common usage should be listed. If there is no official or common name, the source should be described as "unnamed stream" or "spring." The first named downstream water source to which the source is tributary shall also be listed. For ground water sources, the source shall be listed as "ground water." (7-1-93)

ii. Only one (1) source shall be listed unless the claim is for a single water delivery system that has more than one (1) source, or the claim is for a single licensed or decreed right that covers more than one (1) water delivery system. If more than one (1) source is listed and the claim is not for a single water delivery system that has more than one (1) source, and the claim is not for a single licensed or decreed water right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)

~~d. Location of Point of Diversion. The location of the point of diversion shall be listed at item four (4) of the form. (7-1-93)~~

~~i. The location of the point of diversion shall be described to nearest forty (40) acre tract (quarter-quarter Section) or government lot number, and shall include township number (including north or south designations), range number (including east or west designations), Section number, and county. The location of the point of diversion should be described to the nearest ten (10) acre tract (quarter-quarter quarter Section) if that description is reasonably available. (7-1-93)~~

~~ii. If the point of diversion is located in a platted subdivision, a plat of which has been recorded in the county recorder's office for the county in which the subdivision is located, the claimant shall also list the subdivision name, block number and lot number in the remarks section of the form. (7-1-93)~~

~~iii. Only one (1) point of diversion shall be listed unless the claim is for a single water delivery system that has more than one (1) point of diversion, or the claim is for a single licensed or decreed water right that covers more than one (1) water delivery system. If more than one (1) point of diversion is listed and the claim is not for a single water delivery system that has more than one (1) point of diversion, and the claim is not for a single licensed or decreed right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)~~

~~e. Description of Diversion Works. The diversion works shall be described at item five (5) of the form. (7-1-93)~~

- ~~i.~~ *The description shall include all major components of the water delivery system. The description shall also include the depth of wells, the horsepower capacity of pumps, and those dimensions of major components which affect the diversion capacity of the water delivery system.* (7-1-93)
- ~~ii.~~ *The description shall include the dates and a description of any changes in use or enlargements in use, and as to those dimensions required to be described above, the dimensions as originally constructed and as enlarged.* (7-1-93)
- ~~f.~~ *Purpose of Use and Period of Use. Domestic use is listed on the first line of item six (6) of the form. The period of use and the amount of water claimed in cfs for domestic purposes shall be listed on the first line of item six (6). Period of use shall include the month and day of the first and last day of use.* (7-1-93)
- ~~i.~~ *Stock watering use is listed on the second line of item six (6) of the form. The period of use and the amount of water claimed in cfs for stock watering purposes shall be listed on the second line of item six (6) of the form. Period of use shall include the month and day of the first and last day of use.* (7-1-93)
- ~~ii.~~ *The amount of water claimed for each purpose for which water is claimed shall not exceed the amount of water beneficially used for the purpose claimed, and the period of use for each purpose claimed shall not exceed the period in which water is beneficially used for the purpose claimed.* (7-1-93)
- ~~g.~~ *Amount of Water Claimed. The total amount of water claimed shall be listed in cfs at item seven (7) of the form. The total amount of water claimed shall not exceed the total of the amounts listed at item six (6) of the form, or the total diversion capacity of the diversion system, whichever is less.* (7-1-93)
- ~~h.~~ *Annual Volume of Consumptive Use. The annual volume of consumptive use for domestic and stock watering use is generally deemed de minimus. Annual volume of consumptive use is already stated as de minimus at item eight (8) of the form.* (7-1-93)
- ~~i.~~ *Description of Uses. The uses of water claimed shall be fully described at item nine (9) of the form.* (7-1-93)
- ~~i.~~ *For domestic use in homes, the number of households served shall be described. If domestic use for more than one (1) household not in a single ownership is listed, the form will be rejected and returned along with any fees paid, and the claim must be refiled on the long claim form.* (7-1-93)
- ~~ii.~~ *Domestic use for organization camps and public campgrounds shall be fully described, including but not limited to the number of camp units, water faucets, flush toilets, showers, and sewer connections. Description of domestic use for organization camps and public campgrounds shall also include the average and peak numbers of individuals using the facility, and the periods when peak or average rates of usage occur.* (7-1-93)
- ~~iii.~~ *For stock watering use, the number and type of stock shall be described.* (7-1-93)
- ~~j.~~ *Place of Use. The place of use for domestic use claimed shall be listed at item ten (10) of the form by entering a "D" in the appropriate boxes for each forty (40) acre tract or government lot on the form. The place of use for stock watering use claimed shall be listed at item ten (10) of the form by entering an "S" in the appropriate boxes for each forty (40) acre tract or government lot on the form.* (7-1-93)
- ~~k.~~ *County of Place of Use. The county(ies) in which the place(s) of use is (are) located shall be listed at item eleven (11) of the form.* (7-1-93)
- ~~l.~~ *Authority to Assert Claim. The claimant shall indicate at item twelve (12) of the form whether the claimant is the owner of the place(s) of use. If the claimant is not the owner of the place(s) of use, the claimant shall, in the remarks section of the form, describe the claimant's authority to assert the claim, and state the name, address, and phone number of the owner(s) of the place(s) of use.* (7-1-93)
- ~~m.~~ *Other Water Rights. The claimant shall describe at item thirteen (13) of the form any other water*

rights used at the same place and for the same purpose as the right claimed. If there are no other water rights used at the same place and for the same purpose as the right claimed, the claimant shall state "NA" or "none." (7-1-93)

n. Remarks. The claimant may submit any additional, relevant information not specifically requested at item fourteen (14) of the form. If the space provided is not sufficient, remarks shall be set forth on a separate piece of paper and attached to the form. All separate attachments must be specifically referenced in the remarks section of the form. (7-1-93)

o. Basis of Claim. The basis of the claim shall be indicated at item fifteen (15) of the form. If a water right number has been assigned by the department to the right claimed, the water right number shall also be indicated. If a water right number has not been assigned and the water right is based upon a decree, the claimant shall list the title and date of the decree, the case number, and the court that issued the decree. (7-1-93)

p. Signature. All claims must be signed and sworn or affirmed before a notary public or other person authorized by law to administer an oath or affirmation at item sixteen (16) of the form. (7-1-93)

i. Individuals shall sign at the space indicated for individuals. The form must be signed by the person listed as the claimant at item one (1) of the form unless written evidence is submitted with the form to show that the signatory has authority to sign for the claimant. A form listing more than one (1) claimant at item one (1) must be signed by each of the claimants listed at item one (1) unless the names are joined by "or", or "and/or" at item one (1). (7-1-93)

ii. Claims by corporations, municipalities or other organizations shall be signed by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to sign the form. The signator's title shall be indicated with the signature. (7-1-93)

04. Short Claim Form — Insufficient Claims, Waivers. (7-1-93)

a. Claims filed on the short claim form that do not contain the information required by Rule 060.03, and claims that were improperly filed on the short claim form, shall be rejected and returned along with any fees paid. (7-1-93)

b. The director may waive the minimum information requirements of Rule 060.03 and accept the claim for good cause shown. (7-1-93)

05. Long Claim Form — Minimum Requirements. Claims filed on the long claim form shall contain the following information: (7-1-93)

a. Name, Address and Phone Number of Claimant. The name, address, and phone number of the claimant and all co-claimants claiming the water right jointly with the claimant shall be listed at item one (1) of the form. (7-1-93)

b. Date of Priority. The date of priority shall be listed at item two (2) of the form, and shall include month, day and year. Only one (1) priority may be stated. If more than one (1) priority date is stated, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)

e. Source of Water Supply. The source of water supply shall be stated at item three (3) of the form. (7-1-93)

i. For surface water sources, the source of water shall be identified by the official name listed on the U.S. Geological Survey Quadrangle map. If no official name has been given, the name in local common usage should be listed. If there is no official or common name, the source should be described as "unnamed stream" or "spring." The first named downstream water source to which the source is tributary shall also be listed. For ground water sources, the source shall be listed as "groundwater." (7-1-93)

ii. Only one (1) source shall be listed unless the claim is for a single water delivery system that has more than one (1) source, or the claim is for a single licensed or decreed right that covers more than one (1) water

~~delivery system. If more than one (1) source is listed and the claim is not for a single water delivery system that has more than one (1) source, and the claim is not for a single licensed or decreed water right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims.~~ (7-1-93)

d. Location of Point of Diversion. For claims other than in-stream flows, the location of the point(s) of diversion shall be listed at item four (4) part (a) of the form. For claims to in-stream flows ~~for public purposes~~, the beginning and ending points of the claimed in-stream flow shall be listed at item four (4) part (b) of the form. (7-1-93)(8-24-07)T

i. The location of the point of diversion shall be described to nearest forty (40) acre tract (quarter-quarter section) or government lot number, and shall include township number (including north or south designations), range number (including east or west designations), section number, and county. The location of the point of diversion should be described to the nearest ten (10) acre tract (quarter-quarter-quarter section) if that description is reasonably available. (7-1-93)

ii. If the point of diversion is located in a platted subdivision, a plat of which has been recorded in the county recorder's office for the county in which the subdivision is located, the claimant shall also list the subdivision name, block number and lot number in ~~the remarks section of the form~~ Section 13 of the form (remarks section). The claimant shall also list the Parcel Number or Parcel Identification Number (PIN) as assigned by the county assessor's office for the parcel where the water is diverted unless no Parcel Number or PIN is recorded for the property at the point of diversion. (7-1-93)(8-24-07)T

iii. A claim to a water right that includes storage shall state the point at which water is impounded (applicable only to in-stream reservoirs) or the point at which water is diverted to storage (applicable only to offstream reservoirs), the point at which water is released from storage into a natural stream channel (applicable only where a natural stream channel is used to convey stored water), and the point at which water is rediverted (applicable only where a natural channel is used to convey stored water). (7-1-93)

iv. Only one (1) point of diversion shall be listed unless the claim is for a single water delivery system that has more than one (1) point of diversion, or the claim is for a single licensed or decreed water right that covers more than one (1) water delivery system. If more than one (1) point of diversion is listed and the claim is not for a single water delivery system that has more than one (1) point of diversion, and the claim is not for a single licensed or decreed water right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)

e. Description of Diversion Works. The diversion works shall be described at item five (5) of the form. (7-1-93)

i. The description shall include all major components of the water delivery system, such as dams, reservoirs, ditches, pipelines, pumps, wells, headgates, etc. The description shall also include those dimensions of major components which affect the diversion capacity of the water delivery system. The description shall also state whether the ditches are lined and/or covered, the depth of wells, the horsepower capacity of pumps, and whether headgates are automatic or equipped with locks and/or measuring devices. (7-1-93)

ii. The description shall include the dates and a description of any changes in use (including change in point of diversion, place of use, purpose of use, and period of use) or enlargements in use (including an increase in the amount of water diverted, the number of acres irrigated, or additional uses of water), and as to those dimensions required to be described above, the dimensions as originally constructed and as enlarged. (7-1-93)

iii. Water delivery organizations shall describe the water delivery system up to and including the point where responsibility for water distribution is assumed by entities other than the water delivery organization. (7-1-93)

f. Purpose of Use and Period of Use. Each purpose for which water is claimed, the period of use for each purpose for which water is claimed, and the amount of water claimed for each purpose for which water is claimed shall be listed at item six (6) of the form. Period of use shall include the month and day of the first and last day of use. For example, the period of use for domestic use is often 1-01 to 12-31. (7-1-93)(8-24-07)T

i. The purpose may be described in general terms such as irrigation, industrial, municipal, mining, power generation, fish propagation, domestic, stock watering, etc. (7-1-93)

ii. A claim to a water right which includes storage shall be broken down into component purposes, with the ultimate use(s) of the stored water indicated. The component purposes of a storage right are diversion to storage (not applicable to in-stream reservoirs), storage, diversion from storage (not applicable where the ultimate use is an in-reservoir public purpose). Detention of water in a holding pond that can be filled in less than twenty-four (24) hours at the claimed diversion rate is not required to be claimed as storage. The amount of water claimed shall be limited to the active storage capacity of the reservoir unless a past practice of refilling the reservoir during the water year (October 1 to September 30) is shown or the claim is for a licensed or decreed right that includes refill. If a past practice of refilling the reservoir is shown or if the claim is for a licensed or decreed right that includes refill, the total amount of water claimed for the calendar year and the entire period during which diversion to storage or impoundment occurs shall be indicated. (7-1-93)

iii. The amount of water claimed for each purpose for which water is claimed shall not exceed the amount of water beneficially used for the purpose claimed, and the period of use for each purpose claimed shall not exceed the period in which water is beneficially used for the purpose claimed. (7-1-93)

iv. The amount of water diverted shall be listed in cfs, and the amount of water stored shall be listed in af per annum. (7-1-93)

g. Amount of Water Claimed. The total amount of water claimed shall be listed at item seven (7) of the form. The total amount of water claimed shall not exceed the total of the amounts listed at item six (6) of the form, or the total diversion capacity of the diversion system, whichever is less. (7-1-93)

~~h.~~ *Annual Volume of Consumptive Use. The annual volume of consumptive use shall be listed in af per annum at item eight (8) of the form. The annual volume of consumptive use for in-stream uses and for domestic and/or stock watering uses meeting the definition of Rule 030.01 is generally deemed de minimus.* (7-1-93)

~~h.~~ Description of Non-Irrigation Uses. Non-irrigation uses shall be fully described at item ~~nine eight~~ (98) of the form. For domestic uses, the number of households served shall be described; for stock watering uses, the type of stock and number of each type of stock shall be described. (8-24-07)T

~~i.~~ If the claimant's domestic use does not meet the definition of domestic use in Rule 010.09, the form will be rejected and returned unless the appropriate variable fee is paid. (8-24-07)T

~~ii.~~ The claimant shall also state whether the stock watering use is in-stream, or whether water is diverted from the source for stock watering, ~~or both~~. Both types of stock watering cannot be filed on the same claim form; each type requires a separate claim. (7-1-93)(8-24-07)T

~~iii.~~ Domestic use for organization camps and public campgrounds shall be fully described, including but not limited to the number of camp units, water faucets, flush toilets, showers, and sewer connections. Description of domestic use for organization camps and public campgrounds shall also include the average and peak number of individuals using the facility, and the periods when peak or average rates of usage occur. 8-24-07)T

~~ji.~~ Place of Use. The place of use for each purpose for which water is claimed shall be listed at item ~~ten nine~~ (109) of the form, except that the place of use for in-stream flows for public purposes need not be listed if the place of use is fully described as the stream between the beginning and ending points listed as the points of diversion. (7-1-93)(8-24-07)T

~~i.~~ The number of acres irrigated shall be described by entering the appropriate numbers in the appropriate boxes for each forty (40) acre tract or government lot on the form. For other uses, a symbol or letter corresponding to the purpose for which water is claimed shall be placed in the appropriate box for each forty (40) acre tract or government lot on the form. An aerial photograph denoting or showing the place of use where the use of water occurs shall be included with the claim, unless the claim meets the definition of domestic use and stock

watering use as defined in Rule 010.

~~(7-1-93)~~(8-24-07)T

ii. Claims for an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or irrigation districts organized and existing as such under the laws of the state of Idaho, or for beneficial use by more than five (5) water users in an area of less than twenty-five thousand (25,000) acres shall be accompanied by a map showing the boundaries of the project or irrigation district, and shall state the total number of acres irrigated within the boundaries of the project or irrigations district, and for purposes of determining fees, the number of acres irrigated shall be described by forty (40) acre tract or government lot. The project or district shall submit a map of the boundary of the place of use and, when available, a digital boundary defined in Section 42-202(B)(2), Idaho Code.

~~(7-1-93)~~(8-24-07)T

~~ki.~~ County of Place of Use. The county(ies) in which the place(s) of use is (are) located shall be listed at item ~~eleven ten~~ (170) of the form.

~~(7-1-93)~~(8-24-07)T

~~kl.~~ Authority to Assert Claim. The claimant shall indicate at item ~~twelve eleven~~ (121) of the form whether the claimant is the owner of the place(s) of use. If the claimant is not the owner of the place(s) of use, the claimant shall describe in the remarks section of the form the claimant's authority to assert the claim. Unless the claimant is a water delivery organization, the claimant shall also state the name, address, and phone number of the owner(s) of the place of use in the remarks section of the form.

~~(7-1-93)~~(8-24-07)T

~~ml.~~ Other Water Rights. The claimant shall describe at item ~~twelve~~ (12) of the form any other water rights used at the same place and for the same purpose as the right claimed. If there are no other water rights used at the same place and for the same purpose as the right claimed, the claimant shall state "NA" or "none."

(8-24-07)T

~~m.~~ Remarks and Map. At item ~~thirteen~~ (13) of the form any other water rights used at the same place and for the same purpose as the right claimed. If there are no other water rights used at the same place and for the same purpose as the right claimed, the claimant shall state "NA" or "none."

~~(7-1-93)~~

~~n.~~ Remarks and Map. The claimant may submit any additional, relevant information not specifically requested ~~at item fourteen (14) of the form. If the space provided is not sufficient, remarks shall be set forth on a separate piece of paper and attached to the form. All separate attachments must be specifically referenced in the remarks section of the form. If the space provided is not sufficient, remarks shall be set forth on a separate piece of paper and attached to the form. All separate attachments must be specifically referenced in the remarks section of the form.~~ The point(s) of diversion, place(s) of use, and the water delivery system shall be sketched on the space provided for a map of the project unless the claim is submitted electronically. Section, township and range numbers shall be indicated. The claimant may submit a separate map or drawing if the claimant so desires.

~~(7-1-93)~~(8-24-07)T

~~on.~~ Basis of Claim. The basis of the claim shall be indicated at item ~~fifteen fourteen~~ (154) of the form. If a water right number has been assigned by the department to the right claimed, the water right number shall also be indicated. If a water right number has not been assigned and the water right is based upon a decree, the claimant shall list the title and date of the decree, the case number, and the court that issued the decree. If the basis of claim is a beneficial use (also known as the constitutional method of appropriation), the claimant shall provide a short description of events or history of the development of the water right.

~~(7-1-93)~~(8-24-07)T

~~o.~~ Evidence of Priority. Within thirty (30) days, unless an extension by the director or his designee is approved, the claimant shall provide evidence of the priority date to support the water right claimed. If the claimant fails to provide evidence of priority, the form may be rejected and returned with no refund of the fees paid.

(8-24-07)T

~~p.~~ Signature. All claims must be signed and sworn or affirmed before a notary public or other person authorized by law to administer an oath or affirmation at item sixteen (16) of the form. Each claim must be signed by the claimant at item fifteen (15) of the form, unless the claim is submitted electronically by means of the Internet. Each claimant, through submission of a signed claim or through submission of a claim by means of the Internet, solemnly swears or affirms under penalty of perjury that the statements contained in the notice of claim are true and correct.

~~(7-1-93)~~(8-24-07)T

i. Individuals shall sign at the space indicated for individuals. The form must be signed by the person

For claims submitted by means of the Internet, the form shall be submitted by a person listed as the claimant at item one (1) of the form unless written evidence is submitted with the form to show that the signatory has authority to sign for the claimant. A form listing more than one (1) claimant at item one (1) must be signed by each of the claimants listed at item one (1) unless the names are joined by "or", or "and/or" at item one (1). the person submitting the form has authority to submit the form for the claimant or claimants. Claims by corporations, municipalities or other organizations shall be submitted by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to submit the form. ~~(7-1-93)~~(8-24-07)T

ii. For claims that are not submitted by means of the Internet, the form must be signed by each of the persons listed as claimants at item one (1) of the form unless the signatory has authority to sign for the claimant or claimants. Claims by corporations, municipalities or other organizations shall be signed by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to sign the form. The signatories title shall be indicated with the signature. ~~(7-1-93)~~(8-24-07)T

q. Notice of Appearance. If notices to be sent by the director to the claimant are to be sent to the claimant's attorney, the claimant's attorney shall list the attorney's name and address and sign and date the form at item ~~seventeen~~ sixteen (17~~6~~) of the form. ~~(7-1-93)~~(8-24-07)T

063. Long State Law Claim Form -- Insufficient Claims, Waivers. ~~(7-1-93)~~(8-24-07)T

a. Claims filed on the ~~long~~ state law claim form that do not contain the information required by Rule 060.05~~2~~ shall be rejected and returned along with any fees paid, unless otherwise provided by these rules. ~~(7-1-93)~~(8-24-07)T

b. The director may waive the minimum information requirements of Rule 060.05~~2~~ and accept the claim for good cause shown. ~~(7-1-93)~~(8-24-07)T

074. Further Information. This Rule 060 sets forth minimum requirements for the filing of claims. The director may request further information in support of the assertions contained in a claim as part of the investigation of the water system and the claims pursuant to Section 42-1410, Idaho Code. (7-1-93)

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

**38.01.01 - OTHER CONTESTED CASE OR ADVERSARY HEARINGS BEFORE
THE DEPARTMENT OF ADMINISTRATION**

DOCKET NO. 38-0101-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 rulemaking procedures have been initiated.

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 October 17, 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:

These rules were promulgated in 1992 under Section 67-5202(1), Idaho Code, which was subsequently amended, repealing that rulemaking authority. No statutory authority for these rules currently exists. Consequently, this rule is being repealed.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

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 October 24, 2007.

DATED this August 12th, 2007.

Joanna L. Guilfooy, Deputy Attorney General
Department of Administration
650 W. State Street
P.O. Box 83720, Boise, Idaho 83720-0003
Telephone: (208) 332-1832

IDAPA 38.01.01 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.01.02 - RULES FOR HEARING PROCEDURE FOR DIVISION OF PURCHASING SPECIFICATION CHALLENGES AND RULES FOR NON-ADVERSARY HEARINGS

DOCKET NO. 38-0102-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, 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 October 17, 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:

Rules are redundant to existing statute (Section 67-5733, IC) and where not redundant, do not add substance or value and can cause confusion in the purchasing appeals' process. Consequently, this rule is being repealed.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfoy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

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 October 24, 2007.

DATED this August 12th, 2007.

Joanna L. Guilfoy, Deputy Attorney General
Department of Administration
650 W. State Street
P.O. Box 83720, Boise, Idaho 83720-0003
Telephone: (208) 332-1832

IDAPA 38.01.02 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

**38.01.03 - RULES GOVERNING PRACTICE AND PROCEDURE FOR PUBLIC HEARINGS
BEFORE THE DEPARTMENT OF ADMINISTRATION**

DOCKET NO. 38-0103-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 rulemaking procedures have been initiated.

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 October 17, 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:

These rules were promulgated in 1992 under Section 67-5202(1), Idaho Code, which was subsequently amended, repealing that rulemaking authority. No statutory authority for these rules currently exist. In addition, the rules address procedures for public meetings and add nothing that is not addressed in the Open Meetings Law (Idaho Code § 67-2341, et seq.) Consequently, these rules are being repealed.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfoy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

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 October 24, 2007.

DATED this August 28th, 2007.

Joanna L. Guilfoy, Deputy Attorney General
Department of Administration
650 W. State Street
P.O. Box 83720, Boise, Idaho 83720-0003
Telephone: (208) 332-1832

IDAPA 38.01.03 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.05.01 - RULES OF THE DIVISION OF PURCHASING

DOCKET NO. 38-0501-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, 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 October 17, 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:

Reference rules applicable to certain appeals; increase small purchase exemption limit and professional services exemption limit, under which agencies can purchase without formal bid process, from \$50,000 to \$75,000; clarify professional services exemption is for non-renewable contracts; and delete electronic signature rules.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

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 October 24, 2007.

DATED this August 12th, 2007.

Joanna L. Guilfooy
Deputy Attorney General
Department of Administration
650 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0003
Telephone: (208) 332-1832

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0501-0701

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by Section 67-5733, Idaho Code, and, for contested cases, IDAPA 38.05.02, "Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing." (~~3-15-02~~)(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

041. PROCEDURE FOLLOWED IN THE SOLICITATION OF BIDS AND PROPOSALS.

Except as otherwise provided, the acquisition of property exceeding ~~fifty~~ seventy-five thousand dollars (~~\$5075,000~~) (the sealed procedure limit) shall be by the formal sealed procedure. (~~3-15-02~~)(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

044. SMALL PURCHASES.

01. General. Small purchases are those purchases or procurements expected to cost ~~fifty~~ seventy-five thousand dollars (~~\$5075,000~~) or less. Costs are determined based on the following: (~~3-15-02~~)(9-1-07)T

a. One-time purchases of property; or (3-15-02)

b. Total cost of a contract for services, including renewal or extension periods. (3-15-02)

02. Splitting of Requirements. Acquisition requirements shall not be artificially divided to avoid bid statutes, rules or policies. (3-15-02)

03. Procedure. Unless impractical or impossible and documented in the file, these small purchase procedures require the acquisition to be publicly posted. Except as otherwise provided in this rule, no less than three (3) vendors having a significant Idaho presence as defined by Section 67-2349, Idaho Code, shall be solicited to submit quotations. Award shall be made to the responsible and responsive bidder offering the lowest acceptable quotation. The purchasing file will be fully documented for unacceptable quotations. Should it be impractical or impossible to solicit three (3) vendors, the file shall be fully documented and every effort should still be made to obtain the most favorable terms, conditions and price possible. (3-15-02)

04. Form of Request for Quotation. Unless otherwise prohibited by the buyer, the request for quotation and the quotation may be written, oral, electronic, telephonic or facsimile. (3-15-02)

05. Quoting Time. The quoting time shall be determined by the buyer and should provide sufficient time for the vendor to prepare and return a quotation. The amount of time shall take into consideration such factors as complexity, urgency, availability of property and the number and location of vendors. (3-15-02)

06. Statewide Contracts. Property available under single agency or statewide contracts shall be purchased under such contracts and not as a small purchase under this rule unless otherwise authorized by the administrator. (3-15-02)

07. Professional, Consultant and Information Technology Services. Professional, consultant and information technology services acquired under this rule, where the services are reasonably expected to cost ~~fifty~~ seventy-five thousand dollars (~~\$5075,000~~) or less through a fixed price/not to exceed price contract for a non-renewable term not exceeding one (1) year, may be acquired as each agency sees fit, in accordance with good

business practice and in the best interest of the state.

(3-15-02)(9-1-07)T

08. Purchases in Amounts Less Than Five Thousand Dollars. If the property to be acquired is expected to cost less than five thousand dollars (\$5,000), it may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. (3-15-02)

112. -- ~~120999.~~ (RESERVED).

~~121. DEFINITIONS.~~

~~For purposes of IDAPA 38.05.01, Sections 121 through 127, and unless the context expressly indicates otherwise, the following terms shall have the definitions ascribed to them:~~ (3-15-02)

~~**01. Electronically Signed Communication.** A message that has been processed by a computer in such a manner that ties the message to the individual that signed the message. (3-15-02)~~

~~**02. Message.** An electronic representation of information intended to serve as a written communication with the division. (3-15-02)~~

~~**03. Person.** A human being or any organization capable of signing a document, either legally or as a matter of fact. (3-15-02)~~

~~**04. Signer.** The person who signs an electronically signed communication with the use of an acceptable technology to uniquely link the message with the person sending it. (3-15-02)~~

~~**05. Technology.** The computer hardware or software-based method or process used to create electronic signatures. (3-15-02)~~

~~122. ELECTRONIC SIGNATURES MUST BE CREATED BY AN ACCEPTABLE TECHNOLOGY.~~

~~For an electronic signature to be valid for use by the division, it must be created by a technology that is accepted for use by the division. (3-15-02)~~

~~123. CRITERIA TO DETERMINE IF AN ELECTRONIC SIGNATURE TECHNOLOGY WILL BE ACCEPTED FOR USE BY THE DIVISION.~~

~~**01. Criteria of Section 67-2354, Idaho Code.** For a technology to be accepted for use by the division, it must be capable of creating signatures that conform to requirements set forth in Section 67-2354, Idaho Code: (3-15-02)~~

~~**a.** It is unique to the person using it; (3-15-02)~~

~~**b.** It is capable of verification; and (3-15-02)~~

~~**c.** It conforms to IDAPA 38.05.01, Sections 121 through 123. (3-15-02)~~

~~**02. Additional Criteria.** To be accepted, a technology must also be capable of creating a signature that: (3-15-02)~~

~~**a.** Is under the sole control of the person using it; (3-15-02)~~

~~**b.** Is linked to the data in such a manner that if the data are changed, the electronic signature is invalidated; and (3-15-02)~~

~~**c.** Meets ISO X.509 standards. (3-15-02)~~

~~124. PUBLIC KEY CRYPTOGRAPHY.~~

~~The technology known as Public Key Cryptography is an accepted technology for use by the division, provided that the electronic signature is created consistent with the provisions in this Section. (3-15-02)~~

01- Definitions. For purposes of this Section 124, and unless the context expressly indicates otherwise, the following terms shall have the definitions ascribed to them. (3-15-02)

a- Approved Certification Authority. The certification authority authorized and accepted by the state to issue certificates for electronic signature transactions involving the state. (3-15-02)

b- Asymmetric Cryptosystem. A computer algorithm or series of algorithms that utilize(s) two (2) different keys with the following characteristics: (3-15-02)

i. One (1) key signs a given message; (3-15-02)

ii. One (1) key verifies a given message; and (3-15-02)

iii. The keys have the property that, knowing one (1) key, it is computationally infeasible to discover the other key. (3-15-02)

c- Certificate. A computer-based record that: (3-15-02)

i. Identifies the certification authority issuing it; (3-15-02)

ii. Names or identifies its subscriber; (3-15-02)

iii. Contains the subscriber's public key; (3-15-02)

iv. Is electronically signed by the certification authority issuing or amending it; and (3-15-02)

v. Conforms to widely-used industry standards. (3-15-02)

d- Certification Authority. A person or entity that issues a certificate, or in the case of certain certification processes, certifies amendments to an existing certificate. (3-15-02)

e- Key Pair. A private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify an electronic signature that the private key creates. (3-15-02)

f- Private Key. The key of a key pair used to create an electronic signature. (3-15-02)

g- Proof of Identification. The document or documents presented to a certification authority to establish the identity of a subscriber. (3-15-02)

h- Public Key. The key of a key pair used to verify an electronic signature. (3-15-02)

i- Subscriber. A person who: (3-15-02)

i. Is the subject listed in a certificate; (3-15-02)

ii. Accepts the certificate; and (3-15-02)

iii. Holds a private key that corresponds to a public key listed in that certificate. (3-15-02)

02- Electronic Signature to Be "Unique." Section 67-2354, Idaho Code, requires that an electronic signature be "unique to the person using it." A public key-based electronic signature may be considered unique to the person using it, if: (3-15-02)

a- The private key used to create the signature on the document is known only to the signer; (3-15-02)

b- The electronic signature is created when a person runs a message through a one-way function;

~~creating a message digest, then encrypting the resulting message digest using an asymmetrical cryptosystem and the signer's private key;~~ (3-15-02)

~~e. Although not all electronically signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and~~ (3-15-02)

~~d. It is computationally infeasible to derive the private key from knowledge of the public key.~~ (3-15-02)

~~03. **Signature Is Capable of Verification.** Section 67-2354, Idaho Code, requires that an electronic signature be "capable of verification." A public-key based electronic signature is capable of verification if:~~ (3-15-02)

~~a. The acceptor of the electronically signed document can verify the document was electronically signed by using the signer's public key;~~ (3-15-02)

~~b. If a certificate is a required component of a transaction, that the certificate was valid; and~~ (3-15-02)

~~e. If a certificate is a required component of a transaction, the issuing certification authority identifies which, if any, form(s) of proof of identification it required of the signer prior to issuing the certificate.~~ (3-15-02)

~~04. **Control of Electronic Signature.** Subsection 123.02.a. requires that the electronic signature remain "under the sole control of the person using it." Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, assumes a duty to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's electronic signature.~~ (3-15-02)

~~05. **Electronic Signature Linked to the Message.** The electronic signature must be linked to the message of the document in such a way that if the data are changed, the electronic signature is invalidated.~~ (3-15-02)

~~06. **Electronic Signature Must Meet ISO X.509 Standards.** The electronic signature must meet ISO X.509 standards.~~ (3-15-02)

~~07. **Approved Certification Authority.** The division shall only accept certificates from an approved certification authority.~~ (3-15-02)

~~125. **CRITERIA FOR THE DIVISION TO USE IN ACCEPTING ELECTRONIC SIGNATURES.**~~

~~01. **Level of Security Used to Identify the Signer.** Prior to accepting an electronic signature, the division shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted.~~ (3-15-02)

~~02. **Level of Security Used to Transmit the Signature.** Prior to accepting an electronic signature, the division shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted.~~ (3-15-02)

~~03. **Certificate Format Used by the Signer.** If a certificate is a required component of an electronic signature transaction, the division shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the division.~~ (3-15-02)

~~126. **RETENTION OF CERTIFICATES.**~~

~~All electronically signed messages received by the division in accordance with this rule, as well as any information resources necessary to permit access to the message and to verify the electronic signature, shall be retained by the division as necessary to comply with applicable law pertaining to records retention requirements for that message.~~ (3-15-02)

~~127. ELECTRONIC SIGNATURE REPUDIATION:~~

~~It is the responsibility of the rightful holder of the private key to maintain the private key's security. Repudiation of an electronically signed and transmitted message may only occur by the determination of a court of competent jurisdiction that the private key of the rightful holder was compromised through no fault of the rightful holder and without knowledge on the part of the rightful holder. It is the legal prerequisite for a claim of repudiation that the repudiator have filed a notice of revocation with the certification authority prior to making the claim of repudiation.~~

~~(3-15-02)~~

~~128. --- 999. (RESERVED):~~

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

**38.05.02 - RULES GOVERNING CONTESTED CASE HEARINGS ON BID APPEALS
AT THE DIVISION OF PURCHASING**

DOCKET NO. 38-0502-0701 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(11) and 67-5732, 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 October 17, 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:

Promulgate new rules on procedures applying to bid appeals where there is a contested case hearing.

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

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

There is no fee being charged or imposed through this rulemaking.

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

There is no negative fiscal impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the substance and nature of the rules does not warrant negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration, at (208) 332-1832.

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 October 24, 2007.

DATED this August 12th, 2007.

Joanna L. Guilfooy
Deputy Attorney General
Department of Administration
650 W. State Street
P.O. Box 83720, Boise, Idaho 83720-0003
Telephone: (208) 332-1832

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0502-0701

IDAPA 38
TITLE 05
CHAPTER 02

**38.05.02 – RULES GOVERNING CONTESTED CASE HEARINGS ON
BID APPEALS AT THE DIVISION OF PURCHASING**

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Sections 67-5717(11) and 67-5732, Idaho Code. (9-1-07)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 38.05.02, “Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing.” (9-1-07)T

02. Scope. Pursuant to Section 67-5733(1)(c)(iii), Idaho Code, the director may appoint a determinations officer to conduct a contested case hearing. These rules govern the contested case hearing process. (9-1-07)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this agency. (9-1-07)T

003. CONTESTED CASE HEARINGS.

The provisions found in Sections 031 through 043 of these rules shall govern contested case hearings. (9-1-07)T

004. EXEMPTION FROM ATTORNEY GENERAL’S ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.

Pursuant to Section 67-5206(5), Idaho Code, except as provided in these rules, the procedures contained in Subchapter B, “Contested Cases,” of the rules promulgated by the Attorney General as IDAPA 04.11.01, Sections 100 through 799, do not apply to contested case hearings. (9-1-07)T

005. REASONS FOR EXEMPTION FROM ATTORNEY GENERAL’S ADMINISTRATIVE PROCEDURE RULES.

To prevent unnecessary delays and increased costs in the acquisition of needed property by state agencies, the rules of procedure in this chapter are adopted to promote the speedy resolution of bid appeals. (9-1-07)T

006. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (9-1-07)T

007. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.

The Division of Purchasing is located at 5569 Kendall Street, Boise, Idaho, 83720-0075. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0075. Office hours are 8 a.m. to 5 p.m., Monday through Friday. (9-1-07)T

008. 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). (9-1-07)T

009. (RESERVED).

010. DEFINITIONS.

- 01. Administrator.** The administrator of the Division of Purchasing. (9-1-07)T
- 02. Bidder.** The person or entity appealing in the contested case hearing. (9-1-07)T
- 03. Determinations Officer.** The person designated by the director to conduct a contested case hearing pursuant to Section 67-5733(1)(c)(iii), Idaho Code. (9-1-07)T
- 04. Director.** The director of the Department of Administration. (9-1-07)T

011. -- 030. (RESERVED).

031. FILING OF APPEAL.

The notice of appeal must be filed in accordance with Section 67-5733(1)(c), Idaho Code. (9-1-07)T

032. NOTICE OF CONTESTED CASE HEARING.

A notice of a contested case hearing shall be provided to the bidder, giving at least ten (10) days' advance notice of the contested case hearing. The contested case hearing will be held in Ada County, at such place as may be designated in the hearing notice. Upon concurrence of the parties and the determinations officer, contested case hearings may be conducted telephonically. (9-1-07)T

033. BRIEFS AND MEMORANDA.

Any party may make a request in writing to the determinations officer to file briefs, memoranda, proposed orders or statements of position and the determinations officer shall grant or deny such request as the determinations officer deems appropriate under the circumstances of a particular case. The determinations officer may request briefs, memoranda, proposed orders, or statements of position. (9-1-07)T

034. RULES OF EVIDENCE.

The determinations officer shall control the hearing and direct the order or presentation. A party shall be entitled to introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. (9-1-07)T

035. ADMISSION OF EVIDENCE.

The admission of evidence at contested case hearings shall be governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 600 through 609. (9-1-07)T

036. TESTIMONY.

Testimony to be considered by the determinations officer in the hearing shall be by sworn testimony, except for matters noticed or entered by stipulation. (9-1-07)T

037. DISCOVERY.

Discovery may be conducted in the manner and to the extent allowed by the Idaho Rules of Civil Procedure only if first formally agreed to by the parties, or by order of the determinations officer after an application has been filed and a showing that discovery is required to clarify issues, identify witnesses, or preserve testimony. The order may limit the scope of discovery and the method of discovery as the determinations officer deems appropriate under the circumstances of a particular case. (9-1-07)T

038. RECORDING AND TRANSCRIPTION.

The hearing will be recorded by electrical device. A written transcript will be produced by the department upon request of either party. A bidder requesting such transcript shall be responsible for the cost of the transcript. Any party wishing to have the hearing recorded by a qualified court reporter must request such no less than five (5) business days in advance of the date set for hearing. The requesting party shall pay the cost of the reporter's fees and shall provide a copy to the determinations officer. The non-requesting party may pay for an additional copy for its own use. (9-1-07)T

039. WITNESSES AND EVIDENCE.

The determination officer, on his own or upon application of the bidder or the Department of Administration, may issue subpoenas for the attendance of witnesses and production of documents. (9-1-07)T

040. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

Once the matter is fully submitted, the determinations officer shall issue findings of fact, conclusions of law and preliminary order. Copies shall be provided to all parties. (9-1-07)T

041. FINAL ORDER.

Upon receipt of the determination officer's preliminary order, the director shall issue a final order affirming, modifying, or reversing the original selection determination. Copies shall be provided to all parties. (9-1-07)T

042. MOTIONS FOR RECONSIDERATION.

Motions for reconsideration of the determination officer's preliminary order or of the Director's final order are not allowed. (9-1-07)T

043. APPEALS.

Appeals from the final order shall be taken in accordance with Section 67-5270, Idaho Code. (9-1-07)T

044. -- 999. (RESERVED).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 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(s) 49-201, 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 October 17, 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:

Immediate implementation of the digital license plate program requires changes to provide service to our customers. The new program increases the character capacity from 5 to 6, but may take up to 45 days for the manufacture and delivery of a specialty plate. The rulemaking provides for the extension of a temporary registration to 45 days for the manufacture and delivery of the new plate. The rulemaking also responds to an industry request to allow licensed vehicle dealers to use loaner plates on vehicles in their inventory while they are on loan for civic or charitable events for up to 30 days.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rulemaking provides customer benefits associated with the digital license plate program which will become effective shortly. It also contains a provision for licensed dealers to make vehicles available for civic or charitable events.

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 a portion of the rulemaking is associated with a new digital plate program, and the Department and the various licensed dealers engaged in informal negotiations to reach a decision regarding the use of dealer loaner plates on vehicles used for civic or charitable events.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

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 October 24, 2007.

DATED the 24th day of August, 2007.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone - 208-334-8810 / FAX - 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0260-0701

001. TITLE AND SCOPE.

This rule specifies license plate provisions for standard license plates not otherwise detailed in Title 49, Idaho Code, and provisions for the following special license plates: centennial, disabled veteran, former prisoner of war, handicapped, legislative, personalized, vehicle dealer, year of manufacture, and sample. (1-3-92)

01. Title. These rules shall be cited as IDAPA 39.02.60 "Rules Governing License Plate Provisions." (9-1-07)T

02. Scope. This rule governs license plate provisions for standard license plates not otherwise detailed in Title 49, Idaho Code, and provisions for all specialty program license plates, personalized plates, and special eligibility plates. (9-1-07)T

002. WRITTEN INTERPRETATIONS.

This agency does not rely on written interpretations for these rules. (9-1-07)T

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 04.11.01. "Idaho Rules of Administrative Procedure of the Attorney General." (9-1-07)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (9-1-07)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (9-1-07)T

02. Office Hours. Daily office hours at 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (9-1-07)T

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8649 or by fax at 208-334-8542. (9-1-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (9-1-07)T

007. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

011. LICENSE PLATE PROVISIONS FOR ALL LICENSE PLATES.

The Idaho Transportation Department is authorized to assign unique plate letter/number spacing schemes and to use specific letter/number combination schemes as needed for the purpose of ensuring unique numbering systems for all license plate programs and to administer the provisions of this rule. (9-1-07)T

012. TEMPORARY REGISTRATION FOR NEW, REPLACEMENT, OR REISSUED LICENSE PLATES.

01. Temporary Registration. Upon receipt of payment for required registration and program fees, a forty-five (45) day temporary registration may be issued, indicating "license plates on order." This option will be used whenever license plates are required to be manufactured after the registration transaction has been completed. The temporary registration shall provide proof that the vehicle has been registered and fees have been paid, and the vehicle may be operated until new plates have been received by the registrant. At the discretion of the department, more than one (1) forty-five (45) day temporary registration may be issued, if needed, in order to manufacture license plates. (9-1-07)T

02. Placement of Temporary Registration Document. The forty-five (45) day temporary registration document shall be displayed in the rear window of the vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary registration must be conspicuously displayed where the number and expiration date of the permit may be easily read, and where it is protected from exposure to weather conditions, which would render it illegible. (9-1-07)T

~~013.~~ -- 099. (RESERVED).

100. LICENSE PLATE PROVISIONS FOR STANDARD PLATES.

01. County Designations. The county in which a vehicle is registered will be designated by a number and letter on license plates for passenger cars, pick-up trucks eight thousand (8,000) pounds and under gross weight, hearses, ambulances, wreckers, farm vehicles between eight thousand one (8,001) and sixty thousand (60,000) pounds gross weight, and recreational trailers. The county designators are as follows:

1A - Ada	2A - Adams	1B - Bannock	2B - Bear Lake
3B - Benewah	4B - Bingham	5B - Blaine	6B - Boise
7B - Bonner	8B - Bonneville	9B - Boundary	10B - Butte
1C - Camas	2C - Canyon	3C - Caribou	4C - Cassia
5C - Clark	6C - Clearwater	7C - Custer	E - Elmore
1F - Franklin	2F - Fremont	1G - Gem	2G - Gooding
I - Idaho	1J - Jefferson	2J - Jerome	K - Kootenai
1L - Latah	2L - Lemhi	3L - Lewis	4L - Lincoln
1M - Madison	2M - Minidoka	N - Nez Perce	1O - Oneida
2O - Owyhee	1P - Payette	2P - Power	S - Shoshone
1T - Teton	2T - Twin Falls	V - Valley	W - Washington

(1-3-92)

02. Designation for Farm Vehicles. License plates for farm vehicles between eight thousand one (8,001) and sixty thousand (60,000) pounds gross weight will have the letter "T" following the serial number and a county designator, then a unique serial number followed by the letter "T". (1-3-92)(9-1-07)T

03. Designation for Recreational Vehicles. License plates for recreational trailers will have the letter "R" following the serial number and a county designator, then a unique serial number followed by the letter "R".

~~(1-8-90)~~(9-1-07)T

04. Designations for Motor Homes. License plates for motor homes will have the ~~letter "M"~~ following the serial number and a county designator, then a unique serial number followed by the letter "M".

~~(1-3-92)~~(9-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

151. VEHICLE DEALER LICENSE PLATES RESTRICTIONS.

01. Restrictions. Restrictions on the use of manufacturer or dealer plates are provided for by Section 49-1627, Idaho Code. In addition, the following restrictions shall apply: (1-3-92)

a. Authorized employees may operate vehicles displaying dealer plates only when operated in the furtherance of the dealer's business. The authorized employee must carry an identification card issued by the dealer. The identification card shall contain the employee name, dealership, date of issue, dealer number and signature of an authorized representative of the dealership and the signature of the employee. This use shall be limited to normal business hours unless the operator is in possession of a letter from the dealer listing the specific reason for the after-hour use. (1-3-92)

b. A manufacturer shall not display manufacturer plates on vehicle types other than those manufactured by the manufacturer. (1-8-90)

c. A new or used motorcycle; or all-terrain vehicle ~~or snowmobile~~ dealer shall not display motorcycle dealer plates on other vehicle types or on a new motorcycle; or all-terrain vehicle ~~or snowmobile~~ that the dealer is not enfranchised to sell. ~~(1-3-92)~~(9-1-07)T

~~**d.** A trailer dealer shall not display trailer dealer plates on other vehicle types. (1-8-90)~~

ed. A new vehicle dealer shall not display new vehicle dealer plates on new vehicles that the dealer is not enfranchised to sell. ~~(1-8-90)~~(9-1-07)T

fe. A prospective purchaser shall not have in his possession a vehicle belonging to a dealership after normal business hours without a letter of authority from the dealership. ~~(1-8-90)~~(9-1-07)T

gf. A dealer or manufacturer shall not display a dealer plate for purposes other than provided for by law or regulation. ~~(1-8-90)~~(9-1-07)T

02. Penalties. In addition to the penalties for violation of plate use provided for in Section 49-236, Idaho Code, a dealer or manufacturer may have his license to do business in Idaho suspended for a period not less than fifteen (15) days nor more than thirty (30) days. (1-8-90)

152. VEHICLE DEALER LOANER PLATES.

01. Numbering. Plates shall be numbered from LAA001 to LZZ999. (1-03-93)

02. Surrender of Plates. If the dealership license becomes invalid, the dealer must surrender the registration and loaner plates that have been issued. There shall be no refund of fees. (1-8-90)

03. Vehicle Log. Dealerships shall maintain a vehicle log of each vehicle on which a loaner plate is displayed. The log shall be available for inspection by any peace officer or agent of the Department and shall contain the: (1-8-90)

a. Vehicle Identification Number (VIN) or dealership stock number if such stock number can be

traced to the vehicle's VIN; (1-8-90)

b. Date(s) the plates were displayed on a vehicle; (1-8-90)

c. Number ~~embossed~~ printed on the plate displayed; (~~1-8-90~~)(9-1-07)T

d. Name of person authorized to use the plate; and (1-8-90)

e. Purpose for which vehicle was used. (1-8-90)

04. Identification Card. The Department shall provide an identification card, (registration) for each plate. The registration shall show the: (~~1-8-90~~)(9-1-07)T

a. Dealership name and address; (1-8-90)

b. Number ~~embossed~~ printed on the plate; (~~1-8-90~~)(9-1-07)T

c. Calendar year for which the registration is valid; (1-8-90)

d. Dealer number; (1-8-90)

e. Date of issue; and (1-8-90)

f. A place for the dealer's signature. (1-8-90)

05. Letter of Authorization. Persons using the plate on loaner vehicles while waiting for their own vehicle to be repaired shall have in their possession a letter of authorization or a document showing both the user and dealership name. The document letter must be signed and dated by an authorized employee of the dealership. (1-3-92)

06. Vehicle Use Donation for Civic and Charitable Events. Licensed dealers may authorize the use of their loaner plates when donating the use of vehicles held in their inventory for civic or charitable events. Such time period shall not exceed thirty (30) days. The dealer shall provide a letter of authorization to be carried in the vehicle and proof of current liability insurance, as required by Chapter 12, Title 49, Idaho Code. (9-1-07)T

067. User Fee. The dealer may charge the user a fee for vehicles held in stock for sale and provided to a customer of a dealership while the customer's vehicle is being repaired. (1-3-92)

078. Fees. The fees charged for dealer loaner plates shall be the same as the fees required by Section 49-402, Idaho Code, for new vehicles, and shall be in addition to the current Emergency Medical Service (EMS) and plate fees. Applicants for new loaner plates received after January 1 shall be charged one-twelfth (1/12) the annual fee required for a new vehicle for each month remaining in the licensing year, including the month of application. The annual EMS and plate fees are not prorated. (1-3-92)

153. VEHICLE DEALER TRANSPORTER REGISTRATION AND PLATE.

01. Purpose. Unladen Utility and boat trailers that weigh under two thousand (2,000) pounds unladen may be moved by a manufacturer, ~~transporter~~, dealer, or an employee for demonstration purposes only of either, or by a transporter service contracted by the vehicle's manufacturer or dealer upon registration and payment of an annual fifteen dollar (\$15) transporter plate fee to the ~~D~~department's ~~Dealer Operations Unit~~, or by purchase of a single trip permit. These plates may be used only on boat trailers and utility trailers for demonstration purposes, and may be used while laden for demonstration purposes. (~~1-3-92~~)(9-1-07)T

02. Numbering of Plates. Transporter plates shall be numbered from PA1 TO PZ9999. Transporter plates are required to be displayed on the rear of the trailer. (1-3-92)

03. Renewal of Plates. The transporter registration and plate are valid for one (1) year from January 1

through December 31 and may be renewed by use of a registration sticker showing the year of validation. (1-8-90)

04. Use of Plates. Transporter plates may be moved by registrants from one (1) ~~unladen utility or boat~~ trailer weighing under two thousand (2,000) pounds unladen to another trailer meeting this criteria during the validation current registration period. Vehicles towing a laden trailer displaying a transporter plate must be registered within the appropriate gross vehicle weight category for the combined load. ~~(1-8-90)~~(9-1-07)T

05. Possession of Registration. When transporting a vehicle displaying a transporter plate, the operator of a towing vehicle shall carry the transporter registration in the towing vehicle at all times. (1-8-90)

06. Violations. Violations of this section include: (1-3-92)

a. Display of a transporter plate on any vehicle not required to be registered under this Section; and (1-3-92)

b. Display of a transporter plate on a vehicle not lawfully under the control of the registration holder. (1-3-92)

07. Penalties: (1-8-90)

a. Violation of this section shall be a misdemeanor as provided for by Section 49-236, Idaho Code; and (1-8-90)

b. The plate and registration of anyone who displays a transporter plate other than provided for by this section may be canceled. (1-8-90)

154. -- 1998. (RESERVED).

199. LICENSE PLATE PROVISIONS FOR SPECIAL PROGRAM AND PERSONALIZED PLATES FOR TRAILERS.

Special program and personalized plates may be issued to trailers manufactured primarily for recreational vehicle uses. Such trailers will include camper, tent or fifth-wheel recreational trailers. Trailers with multiple uses such as utility, horse, or boat, with or without recreational vehicle facilities, shall be excluded. (9-1-07)T

200. LICENSE PLATE PROVISIONS FOR SPECIAL PLATES.

01. Year of Manufacture Plates. (1-3-92)

a. Owners of vehicles ~~thirty (30) or more years old~~ manufactured up through 1974, excluding model years 1969, 1971, 1972, and 1973, but including and ending with model year 1974, may apply for the renewal and use of previously canceled Idaho license plates which were originally issued to the same category of vehicle, where the year designation of the plate matches the year of manufacture of a motor vehicle. ~~(1-3-92)~~(9-1-07)T

b. The license plate must be in serviceable condition as originally manufactured, i.e., must not be marred, bent, faded, or otherwise damaged to the point it is illegible. If the plate is repainted to bring it to a serviceable condition, the colors shall match the original colors as closely as possible. The quality of the repaint must equal or exceed the original quality. The plate cannot be a duplicate of a previously manufactured plate still in use. ~~(1-3-92)~~(9-1-07)T

c. The application for use of the plate shall include a statement signed by the applicant attesting that the applicant understands, if the plate use is approved, the plate does not have reflectorized material which meets the requirements of Section 49-443, Idaho Code. The responsibility for any accident or injury arising out of the possible consequence of not having this reflectorized safety feature on the license plate shall be borne by the registrant. (1-3-92)

d. The license plate number sequence applied for cannot duplicate another existing "year of manufacture" license plate number already in use. ~~However, the applicant may be provided with a motor vehicle~~

~~record of the current plate owner for a record inquiry fee, if desired. Contact with the current plate owner will be the responsibility of the applicant. If the applicant is successful in negotiating for the removal of the current plate, the current owner must turn in the plate for cancellation at a county assessor's office and pay the fees due to secure another plate. The antique plate cannot be registered until the current plate is canceled.~~ (1-3-92)(9-1-07)T

e. "Classic" or "Old Timer" plates may be used in conjunction with this revived plate at the option of the registrant. (1-3-92)

02. Centennial License Plates. Personalized, ~~handicapped~~ and regular number plates are available in the centennial format. (1-3-92)(9-1-07)T

03. Disabled Veteran License Plates. Disabled veteran license plates ~~shall~~ may, upon the registrant's request, display the international handicapped symbol to ensure reciprocal parking privileges in all states and provinces. (1-3-92)(9-1-07)T

201. PREVIOUS PROVISIONS FOR LEGISLATIVE LICENSE PLATES.

01. Option to Apply. Members of the Idaho Legislature have the option of applying to the Department's Special Plates Unit for one (1) set of specially numbered license plates bearing the designation "HOUSE" or "SENATE." (1-3-92)

02. Numbering Assignment List. On or before June 15 each year, the Department will request from the Speaker and Pro Tem a current list of license numbers assigned to all legislators. The Department will request that these lists be returned by September 1 or, in an election year, within fifteen (15) days after the election. (1-3-92)

03. Plate Availability. Upon receipt of the lists, the Department will ensure that a complete set of special legislative license plates is available for each legislator. (1-3-92)

202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.

01. Special Characters or Marks. No special characters, or punctuation marks, may be used for personalized messages on license plates. (1-3-92)

a. Up to seven (7) letters or any combination of seven (7) letters and numbers may be used for personalized messages on ~~passenger car~~ eligible six inch by twelve inch (6" x 12") license plates. (1-3-92)(9-1-07)T

b. Up to six (6) letters or any combination of six (6) letters and numbers and spaces may be used for personalized messages on motorcycle plates. (1-3-92)(9-1-07)T

c. Up to six (6) letters or any combination of six (6) letters and numbers and spaces may be used for personalized messages on specialty program license plates. (9-1-07)T

~~ed. Handicapped Disability six inch by twelve inch (6" x 12") plates will display the international handicapped symbol followed by up to five (5) letters, and numbers, and spaces in the personalized message. Disability four inch by seven inch (4" x 7" (motorcycle)) plates will display the international handicapped symbol followed by up to four (4) letters, numbers, and spaces in the personalized message.~~ (1-3-92)(9-1-07)T

02. Issue of Personalized Plates. Personalized plates can be issued only to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to: (1-3-92)

a. Commercial vehicles registered under the International Registration Plan (IRP), because the designators PRP are required to be printed on the plate; (1-3-92)

b. Vehicles for which the designators "~~COMM~~" or "~~LTD~~" "PRP" are required to be printed on the

plate to identify the use; and

~~(1-3-92)~~(9-1-07)T

c. Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers. ~~(1-3-92)~~(9-1-07)T

03. Specific Requests. Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will not be considered valid until stamped in by the Department. Telephone requests will not be accepted. ~~(1-3-92)~~(9-1-07)T

04. Lack of Current Plates. When an applicant for personalized plates does not have current regular number plates: (1-3-92)

a. The Department may issue a thirty (30) day temporary registration to allow time for the manufacture of billing process for personalized plates. ~~A second thirty (30) day temporary registration may be issued if needed.~~ The fee for each thirty (30) day temporary registration shall be as required by Section 49-523, Idaho Code. ~~(1-3-92)~~(9-1-07)T

b. The Department may, upon payment of all required fees, issue a copy of the application and receipt to the applicant for display in place of the thirty (30) day temporary. See Section 49-429, Idaho Code temporary registration document as provided in Section 012 of these rules. ~~(1-3-92)~~(9-1-07)T

05. Credits. When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only. (1-3-92)

06. Renewing Plates. The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due. New plates must be purchased in the year of general reissue every seven years as provided in Section 49-443, Idaho Code. ~~(1-3-92)~~(9-1-07)T

07. Transfer of Plates. When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled. (1-3-92)

08. Acceptability of Plates Message. Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (1-3-92)

a. The combination of numbers and letters requested or combinations of same may not duplicate an existing combination in use. (1-3-92)

b. The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of: obscenity; contempt; prejudice; hostility; insult; racial degradation; ethnical degradation; profanity; or vulgarity as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. ~~(1-8-90)~~(9-1-07)T

c. The criteria in Subsection Paragraph 202.08.b. above of these rules is not to be considered an exhaustive list. A compilation of offensive or obscene words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. ~~(1-3-92)~~(9-1-07)T

d. When a complaint is received from the public concerning an issued plate, the name of the caller will not be recorded nor, if known, revealed. (1-3-92)

e. Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles Bureau. The determination process shall include a first review by technical staff, followed by a second review by supervisory and management staff. An applicant does, however, have a right to a hearing on the decision. ~~(1-3-92)~~(9-1-07)T

09. Message Preferences. Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail. (1-3-92)(9-1-07)T

10. Recalled Plates. Personalized plates may be recalled by the Department for the following reasons: (1-3-92)

a. Error in manufacturing; or (1-3-92)

b. Clerical error. (1-3-92)

c. Unacceptable personalized messages as outlined in Subsection Paragraph 202.08.b. of these rules. (1-3-92)(9-1-07)T

11. Unexpired Fees. If a set of personalized plates is recalled, the ~~twenty five dollars (\$25)~~ personalized plate program fee, unexpired portion of the registration fee, E.M.S. fee, plate fee, (if plates are returned to the department), and ~~centennial fee~~ all other applicable special plate fees, if applicable, will be refunded or transferred to a new issue of personalized plates. (1-3-92)(9-1-07)T

12. Expired Plates. Personalized plates that are allowed to expire shall become immediately available for reissue to another applicant. There is no grace period. (1-3-92)

203. PROVISIONS FOR FORMER PRISONER OF WAR (POW) LICENSE PLATES.

01. Eligible Person. Any veteran who was a prisoner of war (POW) of an armed enemy of the United States during active service in the armed forces of the United States during the following recognized war periods may be eligible:

WORLD WAR I	April 6, 1917 to November 11, 1918
WORLD WAR II	December 7, 1941 to December 31, 1946
KOREAN WAR	June 27, 1950 to January 31, 1955
VIETNAM WAR	August 5, 1964 to May 7, 1975
USS PUEBLO	January 23, 1968 to December 23, 1968
DESERT STORM PERSIAN GULF	August 2, 1990 (Congress has not assigned an ending date.)

(1-3-92)(9-1-07)T

02. Certified Documentation. Eligibility shall be documented by a copy of the applicant's 53.55 or DD-214 Separation from Active Duty papers, or other specific documentation received from the Veterans Administration that certifies that the applicant was a prisoner of war during the recognized war periods stated above. (1-3-92)

204. -- 299. (RESERVED).

300. PROVISIONS FOR SAMPLE PLATES.

Sample plates are issued at twelve dollar (\$12) per plate on the "Scenic Idaho/Famous Potatoes" red, white, and blue plate as follows: (1-3-92)

01. Plate Size. Plates carrying the word SAMPLE in both passenger car size (six inches by twelve inches (6" x 12")) and motorcycle size (four inches by seven inches (4" x 7")). (1-3-92)

02. Personalized Sample Plates. Personalized Sample plates are issued on both plate sizes, passenger car with maximum of seven (7) characters and motorcycle size with a maximum of six (6). (1-3-92)

- a.** The applicant completes an Application for Personalized Sample License Plate~~s~~; Form ~~ITD-3684~~.
(~~1-3-92~~)(9-1-07)T
 - b.** The acceptability screening process used is the same as that used for regular personalized plate application. (1-3-92)
 - c.** The Department shall adopt written policy for the issuance of duplicate and replacement sample plates with personalized character combinations. (1-3-92)
 - d.** The department may include other special license plate programs for sample plate sale, when not prohibited by code, or that would not cause a compromise of a special eligibility plate program. (9-1-07)T
- 03. Penalties.** There is a penalty for fictitious display of sample plates (Section 49-456, Idaho Code). (1-3-92)

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.02.75 - RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

DOCKET NO. 39-0275-0701

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(s) 49-201, 49-306, 49-314, 49-315, 49-318, 49-319, 49-336, and 49-2443, 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 October 17, 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:

This rulemaking will provide more flexibility in naming standards on driver's licenses and identification cards, by allowing apostrophes in names and allowing a married couple to use the same hyphenated last name. These are appropriate and requested options.

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

This rulemaking confers a benefit on the citizens of the state and responds to their requests.

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 RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is in response to reasonable and appropriate requests by the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

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 October 24, 2007.

DATED this 24th day of August, 2007.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone – 208-334-8810, FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0275-0701

000. LEGAL AUTHORITY.

Under the authority of Sections 49-201, 49-306, 49-314, 49-315, 49-318, 49-319, 49-336, and 49-2443, Idaho Code, the Department adopts the following rule. (5-13-91)

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.75 "Rules Governing Names on Drivers' Licenses and Identification Cards." IDAPA 39, Title 02, Chapter 75. (7-1-07)T

02. Scope. The purpose of this rule is to provide procedures and criteria for County Sheriffs and the Idaho Transportation Department to record and format names, and to allow surnames and hyphenated names on drivers' licenses and identification cards. (~~5-13-91~~)(7-1-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (7-1-07)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-07)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-07)T

005. OFFICE - OFFICE HOURS - MAILING AND STREET ADDRESS - PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise ID 83707-1129. (7-1-07)T

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-07)T

03. Telephone and FAX numbers. The central office may be contacted during office hours by phone at 208-334-8735 or by fax at 208-334-8739. (7-1-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-07)T

0027. -- 099. (RESERVED).

100. GENERAL PROVISIONS.

01. Punctuation Marks. The only punctuation marks which may be used in a name are the comma (,) apostrophe ('), and the hyphen (-). A hyphen is allowed in the last name only, and may occur once. A comma can only be used between the last name and the first name. (~~5-13-91~~)(7-1-07)T

02. Full Name Requirements. Only twenty-six (26) characters, including the spaces and punctuation, can be used in the entire full name on the actual driver's license or identification card. If a full name has more than twenty-six (26) characters, the last name and first name must be written out fully. The middle name can be initialized and then the full middle name entered on the comment line of the application. If there is a designator, it will follow the middle initial. If the name is still more than twenty-six (26) characters, the first and middle names can be initialized and the full first and middle names entered on the comment line of the application. (5-13-91)

101. -- 199. (RESERVED).

200. CRITERIA.

- 01. Legal Name.** The name on the birth certificate will be used unless a name changes due to: (5-13-91)
- a. Marriage; (5-13-91)
 - b. Divorce; or (5-13-91)
 - c. Court Order. (5-13-91)
- 02. Stepparents' Name.** Applicants are not allowed to use their stepparents' last name, except by court order or other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (7-1-96)
- 03. Drivers License and Identification Card Names.** The name printed on the driver's license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). (7-1-96)
- 04. Designations of Names.** The designations of I, II, III, etc., will become first (1st), second (2nd), third (3rd), etc., and will appear after the middle name. The designators of JR and SR (no periods allowed) will be permitted and will appear after the middle name. The JR and SR designators will be permitted only if there is proof that the other individual exists, by way of an original certified copy of a birth certificate. (7-1-96)
- 05. Married Applicants' Names.** Married applicants are permitted to use the maiden name of ~~a~~ the woman or surname of ~~a~~ the man as ~~a~~ the last name, or as the middle name, or hyphenate both surnames to form the last name. When married applicants choose to use different hyphenated names or only one applicant chooses to hyphenate their name, Wwomen will hyphenate their last names as "maiden-married" ~~name~~ and Mmen will hyphenate their last names as "surname-maiden" ~~name~~. Married applicants who choose to have the same hyphenated last name may hyphenate their name as either "maiden-married" or "surname-maiden". (~~5-13-91~~)(7-1-07)T
- 06. Divorced Applicants' Names.** Divorced applicants who want to use their original surname, or a surname from a previous marriage, but do not have a divorce decree indicating the new name are allowed to submit the following documents to the County Sheriffs or the Idaho Transportation Department: (5-13-91)
- a. Original certified copy of the birth certificate showing the original surname; (7-1-96)
 - b. Original certified copies of the marriage license and the divorce decree, as evidence to change the name; or (7-1-96)
 - c. Original certified copies of the marriage license and divorce decree (only required for applicants wanting to use a surname from a former marriage). (7-1-96)
- 07. Applicant's First Name.** Applicants are not allowed to change their first names except by court order. (5-13-91)
- 08. Common Law Marriage.** Common law marriages created prior to January 1, 1996 will for the purposes of this rule be treated as a valid marriage. An affidavit of agreement is required which shall include: (7-1-96)
- a. The signatures of both the husband and the wife; (5-31-91)
 - b. The date they became married under common law; and (5-13-91)

c. Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)

09. Change of Name on Record. Once names are established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. (An original certified copy of the document, which is dated after the date of record, will be required.) (7-1-96)

10. Titles or Nicknames. Applicants are not allowed to use titles or nicknames. (7-1-96)

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.08 - RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD SUSPENSION AXLES AND OTHER AUXILIARY AXLES

DOCKET NO. 39-0308-0701 (CHAPTER REPEAL)

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 49-1001, 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 October 17, 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:

This action repeals the Administrative Code, in compliance with Section 49-1001, Idaho Code, as amended by Senate Bill 1049, 2007, Session Law Chapter 65, effective July 1, 2007, which deleted provisions for pre-qualification of variable load suspension axles.

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

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 RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action is a result of legislative action, amending Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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 October 24, 2007.

DATED this 24th day of August, 2007.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street - P O Box 7129, Boise ID 83707-1129
Phone - 208-334-8810, FAX - 208-334-8195

IDAPA 39.03.08 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.10 - RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

DOCKET NO. 39-0310-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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(s) 40-312 and 49-1001, 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 October 17, 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:

There is a need for a more efficient and economical method of permitting of wreckers removing disabled vehicles which is accomplished by combining the permitting of emergency moves and secondary moves. A safer and more reasonable method of setting allowable weight limits on permitted vehicles, while protecting our roads and bridges, is established by using the Department's Route Capacity Map, subject to posted weight restrictions.

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

This rulemaking establishes a safer and more reasonable method of setting weight limits on permitted vehicles and also confers a benefit to wrecker owner/operators by reducing the number of required permits by combining emergency and secondary moves of disabled vehicles.

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 action both confers a benefit and improves the safety of the traveling public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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 October 24, 2007.

DATED this 24th day of August, 2007.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street - PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0310-0701

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (8-1-07)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (8-1-07)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (8-1-07)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129. (8-1-07)T

02. Office Hours. Daily office hours are 7 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (8-1-07)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (8-1-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (8-1-07)T

0027. -- 009. (RESERVED).

010. DEFINITIONS.

Refer to ~~Rule~~ IDAPA 39.03.01, Rules Governing Definitions, for definitions of the terms used in this rule. (~~10-2-89~~)(8-1-07)T

011. -- 099. (RESERVED).

100. GENERAL.

An overlegal permit, in writing, shall be required for any movement on any completed section of highway under the jurisdiction of the Department by any vehicle or vehicles with non-reducible loads which exceed the allowable weights or sizes established in Sections 49-1001, 49-1002 and 49-1010, Idaho Code. (~~4-5-00~~)(8-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

300. WAIVER OF LIMITATIONS FOR EMERGENCY MOVEMENTS.

Notwithstanding other provisions of these rules, the Idaho Transportation Board may waive existing permit policy limitations in the event of an emergency, subject to such limitations or special requirements as the Board may impose. (8-25-94)

01. Military Emergency Affecting National Security. Any movement by or for a military or other government agency which is in excess of permit policy maximum limits of weight or size or which is otherwise outside established rules must be certified as a military necessity involving national security before receiving any special consideration to provide any waiver of normal permit rules. Certification of military necessity must be made by an official designated as having such authority by the Department of Defense Directory, issued by the Office of the

Chief of Transportation, Department of Army. All applications for military emergency movements must be channeled through the Vehicle Size and Weight Specialist, Idaho Transportation Department. (8-25-94)

02. Emergencies Endangering the Public Health, Safety or Welfare Including but Not Limited to Fire, Flood, or Earthquake. During an emergency endangering the public health, safety or welfare, there may be an urgent and immediate need for equipment and it will not be in the public interest to require that an overlegal permit be in the vehicle prior to an over legal movement. Verbal approval to proceed without an overlegal permit in the vehicle may be obtained from the Overlegal Permit Office or an Idaho Port-of-Entry. Once the emergency movement is completed, formal application for an Overlegal Permit must be submitted to the Overlegal Permit Office.
(4-5-00)(8-1-07)T

03. Emergency Movement of Implements of Husbandry. It shall be considered an emergency when an implement of husbandry being operated on an official state holiday or a weekend (the Overlegal Permit Office is closed on weekends and holidays - for hours of Permit Office operation see IDAPA 39.03.09, "Rules Governing Overlegal Permits-General Conditions and Requirements") breaks down and needs to be taken to a dealer for immediate repair, or a dealer brings replacement equipment to the farmer that exceeds the annual permit maximum width of fourteen (14) feet - six (6) inches. Verbal approval to proceed without an overlegal permit in the vehicle may be obtained from an Idaho Port of Entry. That verbal authorization will include escort vehicle requirements based on the route of travel and width of load. Once the emergency movement is completed, the permittee shall make formal application for a permit to the Overlegal Permit Office on the first working day after the occurrence.
(4-5-00)(8-1-07)T

04. Economic Emergencies. When a circumstance occurs in which an economic hardship is expected to result due to the application of existing rules or limitations, the Transportation Board may consider a petition for the temporary waiver of those rules or limitations which are perceived as being the cause of such economic hardship.
(8-25-94)

05. Emergency Removal of Disabled Vehicles. Annual Disabled Vehicle permits ~~or single trip permits~~ will be issued to heavy duty wrecker trucks or other vehicles used for the emergency removal and secondary movement of disabled trucks and/or trailers or combinations and their unladen return, subject to the following rules:
(4-5-00)(8-1-07)T

a. The permitted vehicle involved in the removal of disabled vehicles shall have adequate weight and traction to control the combination of wrecker and attached vehicles, and shall provide brakes to the trailer axles and stop signal and clearance lights to such towed disabled vehicles.
(12-26-90)

b. Loaded weight of the permitted vehicle's drive axle(s) will be permitted up to ~~twenty-five thousand (25,000) pounds/single and up to forty three thousand (43,000) pounds/tandem axle~~ the basic allowable unit weight as shown on the current Idaho Transportation Department Route Capacity Map for the corresponding colored route, unless the highway route is posted with a weight restriction. The current Route Capacity Map is maintained by the Overlegal Permit Office and is available to the public from the Overlegal Permit Office and Idaho Ports of Entry. Length of the combination will be limited to the legal or permitted length of the disabled combination plus forty-five (45) feet. Width will be limited to ten (10) feet or to the permitted width of a permitted disabled over width vehicle/
(8-25-94)(8-1-07)T

c. Time of travel restrictions shall be waived during the emergency movement of the disabled vehicles when necessary to clear the travel way.
(10-2-89)(8-1-07)T

d. Emergency movement of disabled vehicles will be authorized from the point at which the vehicles were disabled to the nearest appropriate ~~commercial~~ site having facilities for ~~adequate repair services and cargo security~~ separation of vehicle combinations into single units unless by nature of the load it presents a hazard to the public (i.e: hazardous materials as defined by CFR 49) due to cargo security. In this event, the emergency movement shall be allowed to be transported to the nearest location where the cargo can be safely secured. Secondary movements of disabled vehicles that have been separated shall ~~not~~ be covered by the disabled vehicles permit as long as the weight/size limits as listed in Paragraph 300.05.b. of this rule are not exceeded. Secondary movements of disabled vehicles that are overwidth and moving at night shall be required to operate by single trip permit in accordance with IDAPA 39.03.13, "Rules Governing Overweight Permits," and Rule 39.03.16, "Rules Governing Oversize Permits For Non-Reduceible Vehicles and/or Loads," if allowed in accordance with the lighting requirements

as listed in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." ~~(4-5-00)~~(8-1-07)T

e. The permitted vehicle involved in the removal of a disabled vehicle shall be allowed (under annual disabled vehicle permit) to tow a non-disabled vehicle to the point of disablement, to replace the disabled vehicle. (4-5-00)

06. Emergency Movements After Dark or Weekends. Any overwidth load moving after dark or on weekends on a red coded route of the ~~Pilot/~~Escort ~~Vehicle~~ and Travel Time Requirements Map must be preceded by an escort vehicle displaying a rotating or flashing amber light to warn other traffic of the presence of the hazard. Any overwidth load moving after dark on black coded routes, if width exceeds ten (10) feet, must also be preceded by such a pilot/escort vehicle. All overwidth loads moved after dark shall have the extreme dimensions marked by lights as required by IDAPA 39.03.12, "Rules Governing Safety Requirements For Overlegal Permits." Self-propelled vehicles utilized to clear the travelway of snow or debris are exempt from the provisions listed in this Subsection. ~~(4-5-00)~~(8-1-07)T

301. -- 399. (RESERVED).

400. OVERLEGAL PERMITS FOR SELF PROPELLED VEHICLES.
Permitted ~~Overweight/oversize~~ self propelled vocational vehicles (such as cranes, loaders, motor graders, drills) may tow any vehicle eight thousand (8,000) pounds or less when such vehicle is used solely for return trip after delivery of the permitted vehicle. ~~(4-5-00)~~(8-1-07)T

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS

DOCKET NO. 39-0312-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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(s) 40-312 and 49-1004, 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 October 17, 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:

Signs displayed by pilot/escort/towing vehicles are not always easily visible by other vehicles of the road. This rulemaking clarifies where the "oversize load" signs should be placed on towing vehicles and pilot/escort vehicles for maximum visibility by other travelers.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rulemaking improves the safety of the traveling public.

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 RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this action provides for improved safety of the traveling public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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 October 24, 2007.

DATED this 24th day of August, 2007.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone - 208-334-8810
FAX - 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0312-0701

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (8-1-07)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (8-1-07)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (8-1-07)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (8-1-07)T

02. Office Hours. Daily office hours are 7 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (8-1-07)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (8-1-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (8-1-07)T

0027. -- 009. (RESERVED).

010. DEFINITIONS.

Refer to ~~Rule~~ IDAPA 39.03.01, "Rules Governing Definitions," for definitions of the terms used in this rule. (~~4-5-00~~)(8-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

300. SIGNING REQUIREMENTS OF TOWING VEHICLES, OVERSIZE VEHICLES AND/OR LOADS.
Oversize load signs shall meet the following specifications: (4-5-00)

01. Dimensions. Eighteen (18) inches high by seven (7) feet wide, letter height ten (10) inches, letter type standard series C, stroke width one and five-eighths (1 5/8) inch, black letters on yellow background. (4-5-00)

02. Displaying Signs. Signs shall be displayed on the front or the roof top of the towing vehicle and the rear of the oversize load. Shall be displayed on the front and back or the roof top of self propelled oversize vehicles. (~~4-5-00~~)(8-1-07)T

03. When Signs Are Required. Oversize load signs shall be required on all vehicles and/or loads exceeding legal width. Signs shall not be displayed when the vehicle is empty and of legal dimensions. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

500. PILOT/ESCORT VEHICLE SIGN REQUIREMENTS.

01. **Oversize Load Signs.** All pilot/escort vehicles while escorting and oversize load shall display a sign on the roof top of the vehicle having the words OVERSIZE LOAD. Such signs shall not be displayed and shall be considered illegal except when the pilot/escort vehicle is actually piloting/escorting an oversize load.

~~(4-5-00)~~(8-1-07)T

02. **Dimensions.** Ten (10) inches high by five (5) feet wide, type standard series B, eight (8) inch high letters, one (1) inch stroke width, and black letters on yellow background.

(4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

900. CONVOY OF OVERLEGAL LOADS.

01. **Convoying Oversize Loads.** Oversize loads which individually would require a pilot/escort vehicle, except overwidth manufactured homes, office trailers, may be permitted to travel in convoy with pilot/escort vehicles in front of and behind the convoy, but such convoys shall not exceed four (4) oversize loads or vehicles between pilot/escort vehicles. Maximum width of units in a convoy shall be limited to fourteen (14) feet six (6) inches on the interstate system or on black-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and to twelve (12) feet six (6) inches on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Oversize loads which do not individually require a~~n~~ pilot/escort vehicle may travel in convoy without pilot/escort vehicles. Maximum length of units in a convoy shall be limited to one hundred (100) feet on red-coded and black-coded routes of the pilot/escort vehicle and travel time requirements map and one hundred twenty (120) feet on the interstate system.

~~(4-5-00)~~(8-1-07)T

02. **Convoying Manufactured Homes, Office Trailers.** No convoy of overwidth manufactured homes ~~and~~ or office trailers shall include more than two (2) units and two (2) piloting/escorting vehicles. On those routes where pilot/escort vehicles are required in front and to the rear of an overwidth manufactured home ~~and~~ or office trailers, two (2) units may travel in convoy between such piloting/escorting vehicles. On routes requiring only a front pilot/escort vehicle, the manufactured home ~~and~~ or office trailers mover may have the option of convoying two (2) units between front and rear pilots/escorts. At no time shall more than one (1) manufactured home or office trailer be piloted/escorted by one (1) pilot/escort vehicle. Minimum spacing of approximately one thousand (1000) feet shall be maintained between all units in a convoy except when a~~n~~ pilot/escort is required to control traffic in turning movements.

~~(4-5-00)~~(8-1-07)T

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE
VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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(s) 40-312 and 49-1004, 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 October 17, 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:

This rulemaking provides clarification to industry on operational requirements by stating that "double trailer combinations" hauling overwidth loads may not exceed 75 feet in overall length. This will help protect against potential overstressing of our infrastructure and improve safety for the traveling public.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This action will protect the public safety and their investment in the state's infrastructure.

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 action provides for improved safety of the traveling public and the protection of their investment in the infrastructure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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 October 24, 2007.

DATED this 24th day of August, 2007.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone - 208-334-8810 / FAX - 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0316-0701

010. DEFINITIONS.

Refer to ~~Rule~~ IDAPA 39.03.01, "Rules Governing Definitions." for definitions of the terms used in this Rule.

~~(10-2-89)~~(8-1-07)T

011. -- 099. (RESERVED).

100. GENERAL OVERSIZE LIMITATIONS.

01. Maximum Dimensions Allowed. The maximum dimensions of oversize vehicles or oversize loads shall depend on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. Overlegal permits will not normally be issued for movements which cannot allow for the passage of traffic as provided in IDAPA 39.03.11, "Rules Governing Overlegal Permittee Responsibility and Travel Restrictions," Subsection 100.05, except under special circumstances when an interruption of low volume traffic may be permitted (not to exceed ten (10) minutes) or when adequate detours are available. (4-5-00)

02. Practical Minimum Dimension. Oversize loads shall be reduced to a practical minimum dimension. Except as noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, length or height nor shall permits be utilized for multiple unit loads which may be reduced in number of units and positioned to meet legal dimensions established in Section 49-1010, Idaho Code. (8-25-94)

03. Multiple Unit Overwidth Loads. Multiple unit overwidth loads must be transported on legal dimension vehicles. Overwidth loads may be transported on ~~extra-length~~ double trailer combinations not exceeding seventy-five (75) feet combination length exclusive of load overhang. ~~(8-25-94)~~(8-1-07)T

04. Overwidth Overhang. Over width loads shall distribute overhang to the sides of the trailer as evenly as possible. (8-25-94)

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILERS

DOCKET NO. 39-0317-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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(s) 40-312 and 49-1004, 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 October 17, 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:

This rulemaking provides compliance with 49 CFR, Part 393, Subpart F, Coupling Devices and Towing Methods, which allows less restrictive options for connection devices between a manufactured home and the towing vehicle.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This action provides compliance with the Code of Federal Regulations. (49 CFR, Part 393)

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 action is necessary for compliance with the Code of Federal Regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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 October 24, 2007.

DATED this 24th day of August, 2007.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone - 208-334-8810
FAX - 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0317-0701

010. DEFINITIONS.

Refer to ~~Rule~~ IDAPA 39.03.01, "Rules Governing Definitions." for definitions of the terms used in this Rule.

~~(10-2-89)~~(8-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

200. MANUFACTURED HOMES AND OFFICE TRAILERS BEING TOWED.

01. Connection Device. ~~A ball hitch coupler.~~ Shall meet the requirements of Federal Motor Carrier Safety Regulations, 49 CFR part 393. ~~(10-2-89)~~(8-1-07)T

02. Length. Not in excess of eighty (80) feet including tongue. (10-2-89)

03. Width. Shall be limited to a maximum of sixteen (16) feet at the base and shall not exceed eighteen (18) feet overall width including the eaves.

** Determination of manufactured home or office trailer width shall be exclusive of such appurtenances as clearance lights, door handles, window fasteners, door and window trim, moldings and load securement devices up to but not in excess of three (3) inches on each side of load. (3-23-98)

04. Eaves. No restrictions on eaves as long as the eighteen (18) feet maximum overall width limitation is not exceeded. (4-11-06)

05. Weight. The maximum allowable load for any vehicle tire operated on any public highway shall be in accordance with Code of Federal Regulations, Title 24, Chapter 20, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Subpart J, (CFR Title 24). (3-23-98)

06. Running Gear Assembly -- General. The entire system (frame, drawbar, and coupling mechanism, running gear assembly including brake systems, axles and lights) shall be in accordance with CFR Title 24, for the year the manufactured home was built. In addition thereto, all tires used in transportation of manufactured homes under this category shall be in accordance with Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

07. Construction. Construction shall be in accordance with CFR Title 24, for the year the manufactured home was built. (3-23-98)

08. Axles. All axles shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have a minimum of four (4) axles. (3-23-98)

09. Brakes. Brakes shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have brakes on a minimum of three (3) axles. (3-23-98)

10. Lights. The unit shall have stop lights, turn signals and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

11. Safety Chains. Two (2) safety chains shall be used, one (1) each on right and left sides of, but separate from, the coupling mechanism connecting the tow vehicle and the manufactured home while in transit. Chain shall be three-eighths (3/8) inch diameter steel. Chains shall be strongly fastened at each end to connect the tow

vehicle and manufactured home and assure that in the event of a coupling failure the manufactured home will track behind the tow vehicle. (3-23-98)

201. VEHICLES FOR TOWING MANUFACTURED HOMES AND OFFICE TRAILERS.

01. Towing Vehicle. Tow vehicles for manufactured homes and office trailers shall comply with the following minimum requirements:

Manufactured Homes and Office Trailers Width	Tire Width	Drive Axle Tire Rating	Min. Unladen Weight	Rear Axle Rating
Over 8' to 10'	7.00"	6 Ply	6,000#	None
Over 10'to 12'	8.00"	8 Ply	8,000#	15,000#
Over 12'	8.25"	10 Ply	12,000#	15,000#

(3-23-98)

02. Brakes. Shall be in accordance with Federal Motor Carrier Safety Regulations part 393. (8-25-94)

03. Rear Axle. Towing vehicle shall have a minimum of a single axle with dual mounted tires. (8-25-94)

04. ~~Hitch Assembly~~ Connection Device. Shall meet the requirements of Federal Motor Carrier Safety Regulations, part 393. ~~(8-25-94)~~(8-1-07)T

05. Horsepower Requirement. When towing a manufactured home or office trailer a minimum speed of twenty-five (25) mph must be maintained. (3-23-98)

06. Two-Way Radio. (3-23-98)

a. On all movements requiring a pilot/escort vehicle, both the towing unit and the pilot/escort vehicle(s) shall be equipped with two-way radio equipment, licensed under Federal Communications Commission regulations adequate to provide reliable voice communication between the drivers thereof at all times during the movement of the escorted load. Transmitting and receiving capabilities of the radio equipment used shall be adequate to provide the required communication over a minimum distance of one-half (1/2) mile separation under conditions normally encountered along the proposed route. (4-5-00)

b. Radio communication shall be open and monitored between pilot/escort vehicle(s) and oversize load at all times during movement. (4-5-00)

07. Operator Requirements. Operators of vehicles towing manufactured homes, modular buildings and office trailers over ten (10) feet wide at the base shall have a class A or B Commercial Driver's License (CDL) as appropriate. (3-23-98)

08. Speed Limit Requirements. Vehicles towing manufactured homes, modular buildings and offices, shall be limited to a maximum of sixty (60) miles per hour. (3-23-98)

IDAPA 41 - PUBLIC HEALTH DISTRICTS
41.04.01 - PUBLIC HEALTH DISTRICT 4 - COSTS AND CHARGES
DOCKET NO. 41-0401-0701 (CHAPTER REPEAL) (FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-416(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 rule was made effective July 1, 1993 and applied only to Public Health District 4. The rule specifies fees for services delivered by the agency, except for those specified elsewhere in Idaho Code. On January 26, 1994 a set of rules were adopted that apply to fee setting for all 7 Public Health Districts. At that point, the 1993 rules became obsolete. This rulemaking is to repeal the 1993 rules for housekeeping purposes.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the nature of the rulemaking is to repeal the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Russell A. Duke at 327-8501.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of August, 2007.

Russell A. Duke
Director
Central District Health Department
707 N. Armstrong Pl.
Boise, Idaho 83704-0825
Ph: 327-8501
Lax: 327-8500

IDAPA 41.04.01 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 54 - OFFICE OF THE STATE TREASURER
54.02.01 - RULES GOVERNING THE COLLEGE SAVINGS PROGRAM

DOCKET NO. 54-0201-0701

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 33-5402(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 current rules contain contractual terms and have complicated the transition to a new program manager. The rules have been revised to contain only those items required to be in rule by Title 33, Chapter 54, Idaho Code. All other program matters are addressed by the contract between participants and the program.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the items retained in the rules are required by Title 33, Chapter 54, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Liza Carberry, Investment Manager, at (208) 332-2997.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 8th day of August, 2007.

Liza Carberry, Investment Manager
College Savings Program
Office of the State Treasurer
304 N. 8th St., Rm. 208
P. O. Box 83720, Boise, Idaho 83720-0091
(208) 332-2997 phone / (208) 332-2961 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 54-0201-0701

000. LEGAL AUTHORITY.

~~In accordance with~~ Section 33-5402(1), Idaho Code, ~~authorizes~~ the State College Savings Program Board ~~shall make, adopt, and publish rules pursuant~~ to interpret Title 33, Chapter 54, Idaho Code, in rule as may be necessary or appropriate to carry out the provisions and purposes of the College Savings Program. (3-15-02)(____)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 54.02.01, "Rules Governing the College Savings Program." (3-15-02)

02. Scope. These rules ~~specify~~ interpret Title 33, Chapter 54, Idaho Code, and prescribe the conditions and standards ~~under which~~ for the Program shall required to be ~~implemented~~ specified in rule under the provisions of Title 33, Chapter 54, Idaho Code. (3-15-02)(____)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 33-5402(5), Idaho Code, the State College Savings Program Board may issue written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. (3-15-02)(____)

003. ADMINISTRATIVE APPEALS.

~~The provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," shall govern all contested cases filed pursuant to the provisions of Title 67, Chapter 52, Idaho Code. This chapter does not provide for appeal of the requirements for deposits to and withdrawals from the Program. Disputes under the Program shall be governed by the terms of the Program Documents.~~ (3-15-02)(____)

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- ~~OFFICE HOURS~~ -- MAILING ADDRESS ~~AND STREET ADDRESS~~ -- TELEPHONE AND FACSIMILE NUMBERS.

~~The office of the Program is located in the State Capitol Building, 700 West Jefferson, Room 102, Boise, Idaho. The mailing address of the Program is, C/O Office of the State Treasurer, P. O. Box 83720, Boise, Idaho 83720-0091. The telephone number of the Program is (208) 334-3200. The Program's facsimile number is (208) 332-2960.~~ (3-15-02)(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~007. FILING OF DOCUMENTS.~~

~~All filings for rulemaking or contested cases must be filed with the Board. Whenever documents are filed by facsimile transmission, originals shall be deposited in the mail the same day or hand delivered the following business day to the Board.~~ (3-15-02)

~~008~~. -- 009. (RESERVED).

010. DEFINITIONS.

Except where supplemented by the definitions in Section 010 of these rules, the definitions in Section 33-5401, Idaho Code, shall apply to terms used in these rules. (____)

01. ~~Act.~~ The College Savings Program, Title 33, Chapter 54, Idaho Code. **Account Balance Limit on Contributions. The maximum total balance amount for all accounts established under the Program for the benefit of the same designated beneficiary as established by the State College Savings Program Board from time to time and set forth in the Program Documents, but in no event more than the amount permitted under 26 U.S.C. Section 529. (3-15-02)(____)**

~~02. Account.~~ An individual trust account or savings account established as prescribed in Title 33, Chapter 54, Idaho Code. (3-15-02)

032. Account Owner. The Person individual, trust, estate, partnership, association, or corporation identified as the Account Owner in the Program's participation agreement Documents. (5-3-03)(____)

~~04. **Beneficiary or Designated Beneficiary.** Except as provided in Section 33-5404, Idaho Code, with respect to an Account, the Person designated at the time the Account is opened as the Person whose higher education expenses are expected to be paid from the Account or, if this Beneficiary is replaced in accordance with Section 33-5404, Idaho Code, the replacement Beneficiary. (5-3-03)~~

~~05. **Board.** The State College Savings Program Board created by Section 33-5402, Idaho Code. (3-15-02)~~

~~06. **Cash.** Cash shall include checks (as limited in this section), payroll deductions, automatic contribution plans, electronic funds transfers, and transfers from another Qualified Tuition Program. Cash does not include property. Contributions by check must be drawn on a banking institution located in the United States in U.S. dollars. Personal checks, bank drafts, teller's checks, and checks issued by a financial institution or brokerage firm payable to the Account Owner and endorsed over to the Program by the Account Owner are permitted. Third party personal checks up to ten thousand dollars (\$10,000) are also permitted. Money orders, cashier's checks, traveler's checks, starter checks, and credit card convenience checks are not permitted, nor are third party personal checks exceeding ten thousand dollars (\$10,000). (4-11-06)~~

~~07. **Contingent Account Owner.** The Person designated by the Account Owner, pursuant to Subsection 021.02, to become the owner of the Account upon the death of the Account Owner. (3-15-02)~~

~~08. **Contribution.** Cash deposited into an Account established under the Act for the benefit of a Designated Beneficiary. (3-15-02)~~

~~093. **Earnings.** The total Account balance on a particular date minus the Contributions in deposits to the Account as of that date. (3-15-02)(____)~~

~~10. **Member of the Family.** Shall have the meaning as provided in 26 U.S.C. Section 529. (3-15-02)~~

~~11. **Person or Persons.** An individual, a trust, an estate, a partnership, an association or a corporation. (3-15-02)~~

~~1204. **Program.** The College Savings Program and the Idaho College Savings Trust established under Title 33, Chapter 54, Idaho Code. (3-15-02)(____)~~

~~05. **Program Documents.** Written documents governing the agreement between the Account Owner and the Program, including the following: the written description of terms, policies, and procedures applicable to the Program; the Program application signed by the Account Owner; the participation agreement signed by the Account Owner; and, any form provided by the Program and signed by the Account Owner. (____)~~

~~13. **Program Manager.** The financial institution selected by the Board pursuant to the provisions of Section 33-5403, Idaho Code, to act as manager of the Program. (3-15-02)~~

~~14. **Qualified Higher Education Expense.** Shall have the meaning as provided in Section 33-5401(10), Idaho Code. (5-3-03)~~

~~15. **Qualified Tuition Programs.** Shall have the meaning as provided in 26 U.S.C. Section 529. (5-3-03)~~

~~16. **Qualified Withdrawal.** Shall have the meaning as provided in Section 33-5401(11), Idaho Code. (5-3-03)~~

~~1706. **Rollover Distribution.** Shall have the meaning set forth in 26 U.S.C. Section 529(c)(3)(C)(i). (5-3-03)~~

~~011. **UNIFORM GIFT TO MINORS ACT.** Any action taken by an Account Owner with respect to an Account shall comply with any applicable laws governing~~

~~gifts or transfers to minors. (5-3-03)~~

~~012. -- 019. (RESERVED).~~

020. CHANGE OF BENEFICIARY.

~~01. **Change of Beneficiary Form.** An Account Owner may change the Beneficiary designated for the Account at any time by submitting a completed change of Beneficiary form to the Program Manager. (3-15-02)~~

~~02. **Change of Beneficiary Through Rollover Distribution.** A change of Beneficiary may also be accomplished by means of a Rollover Distribution. (3-15-02)~~

021. CHANGE OF ACCOUNT OWNERSHIP.

~~01. **Transfer of Ownership.** An Account Owner may transfer ownership of an Account to another eligible Account Owner at any time. The change of ownership shall be effective if the transfer: (3-15-02)~~

~~a. Is irrevocable; (3-15-02)~~

~~b. Transfers all ownership, reversionary rights, powers of appointment, and powers to direct the withdrawal of funds; and (3-15-02)~~

~~c. Is submitted to the Program Manager in writing. (3-15-02)~~

~~02. **Contingent Account Owner.** An Account Owner may designate a contingent Account Owner to become the owner of the Account automatically upon the death of the Account Owner by submitting a written request to the Program Manager. The contingent Account Owner designation may be revoked by the Account Owner at any time by submitting to the Program Manager another written request that either designates a new contingent Account Owner or revokes all previous designation(s) of a contingent Account Owner. Upon the death of the Account Owner, the successor Account Owner shall provide: (5-3-03)~~

~~a. A certified copy of a death certificate sufficiently identifying the deceased by name and Social Security Number, or such other proof of death as is recognized under applicable law and is acceptable to the Program Manager; and (3-15-02)~~

~~b. A participation agreement signed by the successor Account Owner. (3-15-02)~~

~~03. **Court Order.** A change in an Account Owner may be effected by submitting to the Program Manager a written request that is not signed by the Account Owner of record if the request for change of Account ownership is accompanied by a court order directing the change of ownership or by an affidavit or declaration that is recognized under applicable law to require the transfer of ownership upon death without a court order. The Program Manager shall not implement a change in ownership (other than a change in ownership described in Subsection 021.02 of these rules) without first receiving a written request signed by the Account Owner of record, a court order, or an affidavit or declaration as herein described. Upon acceptance by the Program Manager of a request for change of Account ownership, the successor Account Owner must submit a completed participation agreement to the Program Manager. (5-3-03)~~

~~02211. -- 029. (RESERVED).~~

030. WITHDRAWALS.

01. Minimum Deposit Period. Request For Withdrawal. Contributions must be Account Owners may request withdrawal of all or part of the balance in an account if the amount requested has been on deposit in ~~an~~ the Account a minimum of for ten (10) days before being withdrawn or longer. Following the request of an Account Owner for a withdrawal of all or part of the balance from an Account, payment shall be made not later than seven (7) days after the date on which a determination is made by the Program Manager, that a withdrawal request should be effected. (5-3-03)(____)

02. Determination of Qualified and Non-Qualified Withdrawals. The Account Owner shall be responsible for satisfying requirements of the United States Internal Revenue Service and the Idaho Tax Commission concerning proof that a withdrawal is a qualified withdrawal. (____)

031. -- 039. (RESERVED).

040. ACCOUNT BALANCE LIMIT ON CONTRIBUTIONS.

That portion of a *Contribution for any Designated Beneficiary* deposit to an account that causes the total balance of the Account, together with other Accounts established under the Program for the benefit of the same designated Beneficiary, to exceed the *maximum amount established by the Board from time to time (the "Account Balance Limit on Contributions")*, but in no event more than the amount permitted under 26 U.S.C. Section 529, shall be rejected. Accounts that have reached the Account Balance Limit on Contributions may continue to accrue Earnings, and no withdrawal or Rollover Distribution will be required as the result of such accrual. In determining an Account's balance for purposes of the Account Balance Limit on Contributions, only balances in Accounts established under the Program shall be included. (5-3-03)(____)

~~041. ROLLOVER DISTRIBUTIONS.~~

~~**01. Rollover Distribution from Another Qualified State Tuition Program.** An Account Owner may transfer funds at any time from another Qualified Tuition Program to an Account established under the Act, either owned by the same or a different Account Owner, by submitting a written request to the Program Manager. The rollover of funds from the other Qualified Tuition Program shall be effective provided that: (5-3-03)~~

~~**a.** The funds are transferred to an Account for a new Beneficiary who is a Member of the Family of the Beneficiary of the Account in the other Qualified Tuition Program or the funds are transferred to an Account for the current Beneficiary (and such a transfer has not been made for the current Beneficiary within the preceding twelve (12) months); and (5-3-03)~~

~~**b.** The transfer of funds does not cause the aggregate amount of contributions held for the new Beneficiary to exceed the Account Balance Limit on Contributions applicable to that Beneficiary. (3-15-02)~~

~~**02. Transfer of Account Funds as Rollover Distribution.** An Account Owner may transfer funds from an Account established under the Act to another Account established under the Act, or an account established under a Qualified Tuition Program in another state, either owned by the same or a different Account Owner, at any time by submitting a written request to the Program Manager. The transfer of Account funds shall be effective provided that: (5-3-03)~~

~~**a.** The funds are transferred to an Account for a new Beneficiary who is a Member of the Family of the Beneficiary of the Account from which the funds are being transferred or the funds are transferred to an account for the current Beneficiary (and such a transfer has not been made for the current Beneficiary within the preceding twelve (12) months); and (5-3-03)~~

~~**b.** The transfer of funds does not cause the aggregate amount of contributions held for the new Beneficiary to exceed the Account Balance Limit on Contributions applicable to that Beneficiary. (3-15-02)~~

~~**03. Rollover of Account Funds Methods.** A rollover of Account funds from or to another Qualified Tuition Program or within this Program shall be effected through a direct transfer of funds to an Account or as a deposit of the funds into an Account established under a Qualified Tuition Program within sixty (60) days of withdrawal of the funds from the other Qualified Tuition Program. (5-3-03)~~

~~**04. Execution of New Participation Agreement.** Any Rollover Distribution that is intended to transfer funds to a new Account not yet established under the Act shall not be effective until the Account Owner who is to receive the transferred funds has submitted a completed participation agreement for the new Account and the Account has been established. (3-15-02)~~

0421. -- 999. (RESERVED).

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
THE LOWER CLARK FORK RIVER SUBBASIN TMDLS (HUC 17010213)**

DOCKET NO. 58-0000-0709

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 Lower Clark Fork River Total Maximum Daily Load (TMDL).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Lower Clark Fork River 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 Lower Clark Fork River Subbasin TMDLs (Hydrologic Unit Code 17010213) addresses forty-four (44) assessment units (AUs) on Idaho's 2002 Section 303(d) list. In addition, four (4) AUs were found to be impaired for pollutants not yet listed on Idaho's 2002 Section 303(d) list and are recommended for Section 303(d) listing in the next Integrated Report. 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/clark_fork_lower/clark_fork_lower.cfm or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 30th day of August, 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

**THE AUGUST 2007 REVISED ADDENDUM TO THE MID-SNAKE
SUCCOR SUBBASIN TMDLS (HUC 17050103)**

DOCKET NO. 58-0000-0710

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 August 2007 Revised Addendum to the Mid-Snake Succor Total Maximum Daily Load (TMDL).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the August 2007 Revised Addendum to the Mid-Snake Succor 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 August 2007 Revised Addendum to the Mid-Snake Succor River Subbasin TMDLs (Hydrologic Unit Code 17050103) addresses ten (10) assessment units (AUs) on Idaho's 2002 Section 303(d) list. 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/snake_river_succor_creek/snake_river_succor_creek.cfm or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 4th day of September, 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

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0703

NOTICE OF RULEMAKING - NEGOTIATED RULEMAKING

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

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For information regarding participation by telephone or scheduling of additional meetings, contact Phyllis Heitman at (208) 373-0256 or phyllis.heitman@deq.idaho.gov. Requests to participate by telephone must be made by October 22, 2007.

**October 24, 2007, 9 a.m. to Noon
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/air/58_0101_0703_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking to ensure that the purpose and applicability of Sections 725 through 729, as they relate to sulfur content of fuels, is clear. DEQ does not intend to change the substance of the rules.

Members of the regulated community who may be subject to Idaho's air quality rules as well as special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may wish to participate in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in 2008 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule. If adopted, the pending rule will be reviewed by the 2009 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the negotiated rulemaking, contact Martin Bauer at (208)373-0440, martin.bauer@deq.idaho.gov.

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 October 24, 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 19th day of September, 2007.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
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 October 24, 2007, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
** Indicates that a public hearing has been scheduled.**

IDAPA 17 - INDUSTRIAL COMMISSION PO Box 83720, Boise, ID 83720-0041

****17-0208-0702, *Miscellaneous Provisions***. Establishes a medical fee schedule and reimbursement methodology pursuant to Worker's Compensation law for providers, sureties, and employers while maintaining budget neutrality.

IDAPA 18 - DEPARTMENT OF INSURANCE PO Box 83720, Boise, ID 83720-0044

18-0144-0701, *Schedule of Fees, Licenses and Miscellaneous Charges*. Eliminates discounted fee and returns to the uniform renewal rate of \$80 for adjusters, producers and surplus lines brokers.

18-0150-0701, *Adoption of the 2003 International Fire Code*. (Temp & Prop) Incorporates by reference the 2006 International fire Code.

18-0153-0701, *Continuing Education*. Updates procedures to allow licensee to download continuing education (CE) courses and course completion rosters via the Internet so that they are credited prior to the license renewal date; eliminates exemptions to CE and added credits because of a reduction in the CE credit hour requirements from forty to twenty four to meet national uniformity standards.

18-0160-0701, *Long-Term Care Insurance Minimum Standards*. Clarifies training requirements for insurance producers selling long term care insurance policies that qualify for Idaho's Long Term Care Insurance Partnership Program.

IDAPA 19 - STATE BOARD OF DENTISTRY 350 North 9th Street, Suite M100, Boise, ID 83702

19-0101-0701, *Rules of the State Board of Dentistry*. Increases licensure application fees for dentists and dental hygienists and the biennial license fees.

IDAPA 20 - DEPARTMENT OF LANDS 954 W Jefferson St. Boise, ID 83720-0050

20-0206-0701, *Administration of Idaho's Reforestation Law*. Repeal of chapter.

20-0212-0701, *Rules of the Community and Urban Forestry Trust Account*. Repeal of chapter.

20-0304-0701, *Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*. Increases permit fees; clarifies definitions of commercial and community marinas; allows commercial marinas to have up to 50% private moorage under certain conditions; amends certain hearing processes, specifies

floathome standards; authorizes temporary permits; and simplifies enforcement actions.

20.03.17, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands. Allows commercial marinas to have some private moorage without permanently encumbering public trust lands and with sufficient protections for the parties involved; specifies what types of rental rates should be used; adds yearly reporting requirements to help determine current market rental rates and to ensure lessees are maintaining proper insurance coverage; provides enforcement remedies and lease cancellations.

IDAPA 22 - BOARD OF MEDICINE
PO Box 83720, Boise, ID 83720-0058

22-0101-0701, Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho. Amends existing language relating to the graduates of U.S., Canadian and international medical schools; clarifies post-graduate medical training requirements; augments international medical school requirements; includes definitions; requires lawful presence in the U.S.; broadens fee schedules.

22-0102-0701, Rules of the Board of Medicine for the Registration of Externs, Interns, and Residents. Amends registration requirements for students and graduates of medical schools in the U.S., Canada and international medical students and graduates; clarifies medical education requirements; includes definitions; broaden fee schedule.

22-0111-0701, Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho. Amends renewal requirements of current CRT certification, current RRT registration or current registration as a polysomnographic technologist; requires English language proficiency; requires lawful presence in the U.S.; broadens fee schedules.

IDAPA 23 - BOARD OF NURSING
PO Box 83720, Boise, ID 83720-0061

23-0101-0702, Rules of the Idaho Board of Nursing. (Temp & Prop) Clarifies that nurses violating the terms of the program for recovering nurses will have their limited licenses summarily suspended, but, when appropriate, a nurse can remain in the program without being referred to the Board for disciplinary proceedings.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
1109 Main St., Ste 220, Boise, ID 83702

24-0301-0702, Rules of the State Board of Chiropractic Physicians. Adds scope of practice; clarifies endorsement requirements to consider various timeframes for licensure in another state; increases continuing education requirement to 18 hours effective January 2009 and allows 6 hours of CE through distance learning and home study.

24-0401-0701, Rules of the Idaho Board of Cosmetology. Allows degree equivalency in lieu of high school education; defines examination; change references to the exam to allow for a third party examination administrator; deletes deadline date for filing application; changes exam model requirements and eligibility for reexamination; corrects limitation on clinical services from hour requirement to percentage to comply with statute.

24-0501-0701, Rules of the Board of Drinking Water and Wastewater Professionals. Defines direct supervision and experience; allows consideration of a backflow examination; clarifies education and experience requirements and reinstatement of license; adds provision for continuing education courses approved by specific states; and changes operator-in-training from permit to license.

24-0701-0701, Rules of the Idaho State Board of Landscape Architects. Updates incorporation by reference and Board address; adds an application fee; clarifies the supervision and limitations on the landscape architect-in-training.

24-0801-0701, Rules of the State Board of Morticians. Corrects exam requirements for funeral director; combines funeral and crematory establishment requirements; adds provisions for display of caskets and merchandise to include video, catalogs and electronic depiction.

24-0901-0701, Rules of the Board of Examiners of Nursing Home Administrators. Waives continuing education requirements for first license renewal; clarifies the setting for trainees in the administrators-in-training program.

24-1101-0701, Rules of the State Board of Podiatry. Allows for consideration of the national board exam and the

acceptable passing grade; establishes a deadline for pending applications; revises continuing education courses that the board will accept.

24-1401-0701, Rules of the State Board of Social Work Examiners. Clarifies supervision of social workers in state and out of state and supervisor registration requirements; updates exam titles and terminology in public policy and code of professional conduct.

24-1501-0701, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. Clarifies qualifications for professional counselor license; updates titles of accrediting bodies; clarifies supervision requirements for marriage and family therapists and that interns must be registered prior to commencement of supervised experience; adds license renewal fees for newly created inactive and senior status; clarifies continuing education endorsement and continuing education exemption for inactive status.

24-1601-0701, Rules of the State Board of Dentistry. Limits the length of an internship and creates a standard for advertisements to ensure public safety.

24-1701-0701, Rules of the Idaho State Board of Acupuncture. Defines accredited college or university and clarifies requirements for certification per statutory change.

24-1801-0701, Rules of the Real Estate Appraiser Board. (Temp & Prop) Allows applicants currently working on licensure time to come into compliance with the new federal standards; clarifies continuing education requirements.

24-2201-0701, Rules of the Idaho State Liquefied Petroleum Gas Safety Board. Incorporates by reference the 2004 Edition of NFPA 58; adds applicant requirement for certification of general liability insurance; creates a section for general liability insurance requirements per statute; clarifies inspection rules.

24-2301-0701, Rules Governing the Idaho Board of Speech and Hearing Services. Clarifies qualifications for Audiologists, Speech-Language Pathologists, Speech-Language Pathologist Aides, Speech-Language Pathologist Assistants, and Hearing Aid Dealer and Fitters; clarifies personal contact by supervisors for provisional permit holders.

****24-2401-0701, Rules of the Board of Naturopathic Medical Examiners.** New chapter provides for an application process and fee schedule; allows for renewal of registrations; sets standards for continuing education; defines scope of practice and approved schools and examinations; provides contact information and definitions.

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION
PO Box 83720, Boise, ID 83720-0065

26-0120-0701, Rules Governing the Administration of Park and Recreation Areas and Facilities. Defines capacity of a campsite to include 1 vehicle or RV, or 2 motorcycles, and up to 2 tents; establishes guidance for park staff to appropriately manage increased park use for non-traditional recreational activities.

26-0130-0701, Idaho Safe Boating Rules. Addresses unsafe seating while the vessel is underway, and the unsafe operation of a vessel in close proximity to a person in the water.

IDAPA 27 - BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067

27.01.01, Rules of the Idaho State Board of Pharmacy

27-0101-0703, (Temp & Prop) Implements the licensing, bonding, and drug pedigree requirements of the Idaho Wholesale Drug Distribution Act, a comprehensive revision of the former wholesale drug distribution laws.

27-0101-0705, Establishes procedures for registration for database access for assignment of user accounts, log-in names, and passwords; for confidentiality; for discipline for the unauthorized disclosure or sharing of account information; and for information reports by non-practitioners.

IDAPA 28 - DEPARTMENT OF COMMERCE
PO Box 83720, Boise, ID 83720-0094

28-0203-0701, Rules of the Idaho Regional Travel and Convention Grant Program. Updates language and concepts that related to previous changes and advances in technology. It is also necessary to update outdated language

and to bring consistency between rules.

IDAPA 29 - IDAHO POTATO COMMISSION

PO Box 1670, Eagle, ID 83616

29-0101-0701, Rules of Procedure of the Idaho Potato Commission. (Temp & Prop) Updates commission location and contact information.

29-0102-0701, Rules Governing Payment of Tax and Usage of Certification Marks and Trademarks. (Temp & Prop) Clarifies IPC tax calculation and reporting method; modernizes packaging rules; and makes trademarks available for marketing purposes.

IDAPA 31 - PUBLIC UTILITIES COMMISSION

PO Box 83720, Boise, ID 83720-0074

31-1201-0701, Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission. Updates the Code of Federal Regulations incorporation by reference.

31-2101-0701, The Utility Customer Relations Rules. Clarifies that customers and applicants may pay service deposits in 2 equal installments; customer refunds will be credited to future bills unless the customer requests a refund; limits the time period a utility may rebill an undercharged customer to 6 months unless a reasonable person should have known of the inaccurate billing which resulted in the undercharge; utilities must implement procedures designed to identify customers who have been inaccurately billed; defines the term "written notice" to include e-mail when the customer has elected to receive electronic billing; clarifies restrictions when service may be denied or terminated and generally prohibits service termination on Fridays with some exceptions; clarifies that a utility is not required to provide service to an applicant who is not connected at the time of application; provides that a utility is not required to connect service for a customer or applicant who owes money on an existing account or a previous account if the unpaid bill is for service provided within the last 4 years.

31-7102-0701, Railroad Accident Reporting Rules. Repeal of chapter.

31-7103-0701, Railroad Safety/Sanitation Rules. Updates incorporation by reference of the October 1, 2007 edition of the federal hazardous material safety regulations - revisions include: requiring "NON-ODORIZED" marking on certain packages including tank cars containing un-odorized liquid petroleum gas (Part 172); revising the transport requirements for infectious substances and regulated medical waste (Parts 172, 173); and new Internet options for registration and assessment of hazardous materials (Part 107). Consolidates the accident reporting rule into this Chapter to streamline the railroad rules.

IDAPA 33 - IDAHO REAL ESTATE COMMISSION

PO Box 83720, Boise, ID 83720-0077

****33-0101-0703, Rules of the Idaho Real Estate Commission.** Requires that a notice advising a licensee of his non-compliance with the errors and omissions insurance requirement be sent as first class mail not "certified" mail.

IDAPA 35 - STATE TAX COMMISSION

P.O. Box 36, Boise, ID 83722-0410

35-0101-0701, Income Tax Administrative Rules. Rule 006: Identifies the MTC Web site for MTC regulations incorporated by reference; indicates the federal forms nonresident alien must file with Idaho return; provides a safe harbor exception to being a resident in Idaho but does not apply to military individuals; adds 2007 income tax brackets and rates table; complies with HB 239 amending Idaho college savings account reporting requirements; Clarifies calculations related to state tax addback and proration of exemptions and deductions of part-year residents and nonresidents that require rounding; addresses issues related to bonus depreciation; changes qualifying entity to qualified investment partnership and identifies the qualifying criteria for nonresidents' income tax liability; new section addresses S corporations; changes rules related to water's edge combined report; clarifies the options for computing ITC on movable property; complies with HB 177 to address tax credit for capital investment in biofuel infrastructure; addresses capital losses and Idaho credits for calculating net operating loss when claiming a refund; changes threshold of employment that triggers recapture for the Idaho small employer new jobs tax credit; deletes obsolete rules.

35.01.02 - Sales Tax Administrative Rules.

35-0102-0603, Amends dates for the schedules to reflect the 6% tax rate.

35-0102-0701, Defines “tax rate” as the current rate in effect and “fleet” to be one or more vehicles registered under the International Registration Plan; states that pumps supplying water to land and buildings will generally be considered fixtures; deletes references to a specific tax rate; states that in most cases store fixtures are to be considered personal property and that cable that must be removed from abandoned buildings is personal property; clarifies that the primary purpose of and primary use of the items purchased by organizations claiming the exemption must be the provision of free dental care to children; incorporates by reference the definition of “trailer” in the Motor Vehicle Code; clarifies effective date of increase in permit fee for amusement devices; clarifies refund claims must state the amount of the refund; includes component parts of snow making and snow grooming equipment as part of exemption for sales; specifies that retailers located in a qualifying shopping center must file a separate return for that location only, restricts release to public sales information from these retailers and requires developer to provide names and tax identification numbers of these retailers.

35.01.03 - Property Tax Administrative Rules

35-0103-0701, Implements HB79 by providing a definition and removing new construction within revenue allocation areas from the budget growth formula until the revenue allocation area is dissolved; implements HB1 and HB197 providing directions for calculation of the maximum property tax funds for tort funds for school districts.

35-0103-0702, Updates references to guides used to determine the values of recreational and certain other vehicles; provides follow-up procedures when categories in compliance in March final ratio study are discovered to be out of compliance following completion of county board of equalization action; adopts new criteria to differentiate real and personal property and to provide that net profits of mines are no longer considered personal property; provides for a procedure for calculating the contributory value of income tax credits for Section 42 housing; restricts Commission's responsibility to provide school district adjusted values to apply to the Boise School District only; clarifies what property at thermal energy electricity generation facilities is new construction; correct pipelines mileage reporting directions; provides cross references and directions relating to apportionment of property at thermal energy electricity generation facilities; changes date for county treasurers to submit property tax rate information used to calculate the tax rates applicable to railcar fleets under \$500,000; provides directions for assigning categories for homesites and when property has multiple uses, for assigning improvement categories with multiple uses, and for calculating the value of the portion of property not permitted the religious property exemption; clarifies homeowner's exemption for partial ownership and calculating benefits for partial ownership; provides procedures for county officials and claimants to that claimants are lawfully present in US and require claimant to present information enabling the state tax commission proving his lawful presence in US; restricts budget increase penalty for school districts so that it applies only to their tort funds; provides timeline for state tax commission review and approval, and procedures for correction of taxable values resulting from errors by county commissioners; outlines responsibilities of county auditors in computing total tax charge by taxing district and of county treasurers to compute individual property tax due on each parcel of property; makes corrections and deletes obsolete rules.

35.01.05 - Idaho Motor Fuels Tax Administrative Rules

35-0105-0701, Notifies gaseous fuels distributors that bad debt credit cannot be claimed on or after 12/1/07; requires gaseous fuels distributor to pay fuels taxes and permit fees to Commission; removes a deduction for gallons delivered to Indian-owned retail outlets and adds a deduction for fuel that is subject of an authorized agreement; shows how the 2% allowance is and will be distributed on and after 12/1/07; requires licensed fuels distributor to pay aircraft engine taxes to Commission; removes “cost of collections” in regard to the 2% discount granted to licensed fuel distributors when they pay motor fuels taxes, and to add biodiesel to the list of products subject to the transfer fee.

35-0105-0702, Provides that special fuels tax is included in price of undyed diesel fuel purchased by a consumer and removes references to high-sulfur diesel fuel and add ultra-low sulfur diesel fuel; addresses recent changes concerning refund claims; gives notice to fuel distributors of reinstatement of transfer fee and provide legal requirement and date for reinstatement.

35-0109-0701, Idaho Kitchen and Table Wine Tax Administrative Rules. Changes “wholesaler” to “distributor” and “unfit for beverage purposes” to “unfit for sale.”

35-0110-0701, Idaho Cigarette and Tobacco Tax Administrative Rules. Defines “person”; changes the word “indicia” to “stamps”; clarifies that only cigarettes can be claimed for a credit in Rule 022.

35-0111-0701, Idaho Unclaimed Property Administrative Rules. “Tax” and “return” in the income tax administrative statutes mean “unclaimed property” and “report of unclaimed property.”

35-0201-0701, Tax Commission Administration and Enforcement Rules. Removes obsolete references; establishes a formula for calculating yearly interest rate applied to deficiencies of tax and refunds; add the interest rate for calendar year 2008.

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
PO Box 83720, Boise, ID 83720-0098

37-0301-0701, Adjudication Rules. Complies with statutory changes and updates outdated citations to Idaho Code; reduces number of claim forms from 2 to 1.

IDAPA 38 - DEPARTMENT OF ADMINISTRATION
PO Box 83720, Boise, ID 83720-0003

38-0101-0701, Other Contested Case or Adversary Hearings Before the Department of Administration. (Temp & Prop) Repeal of chapter.

38-0102-0701, Rules for Hearing Procedure for Division of Purchasing Specification Challenges and Rules for Non-Adversary Hearings. (Temp & Prop) Repeal of chapter.

38-0103-0701, Rules Governing Practice and Procedure for Public Hearings Before the Department of Administration. (Temp & Prop) Repeal of chapter.

38-0501-0701, Rules of the Division of Purchasing. (Temp & Prop) References rules applicable to certain appeals; increases small purchase exemption limit and professional services exemption limit, under which agencies can purchase without formal bid process, from \$50,000 to \$75,000; clarifies professional services exemption is for non-renewable contracts; and deletes electronic signature rules.

38-0502-0701, Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing. (Temp & Prop) Provides for procedures applying to bid appeals where there is a contested case hearing.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129

39-0260-0701, Rules Governing License Plate Provisions. Implements the digital license plate program and increases the character capacity from 5 to 6 for specialty plate; extends temporary registration to 45 days for the manufacture and deliver of new plate; allows licensed vehicle dealers to use loaner plates on vehicles in their inventory while they are on loan for civic or charitable events for up to 30 days.

39-0275-0701, Rules Governing Names on Drivers' Licenses and Identification Cards. Provides more flexibility in naming standards on driver's licenses and identification cards.

39-0308-0701, Rules Governing Prequalification of Variable Load Suspension Axles and Other Auxiliary Axles. (Temp & Prop) Repeal of chapter.

39-0310-0701, Rules Governing When an Overlegal Permit Is Required. (Temp & Prop) Combines the permitting of emergency moves and secondary moves for wreckers removing disabled vehicles; establishes a safer and more reasonable method of setting allowable weight limits on permitted vehicles by using the Department's Route Capacity Map, subject to posted weight restrictions.

39-0312-0701, Rules Governing Safety Requirements of Overlegal Permits. (Temp & Prop) Clarifies where the "oversize load" signs should be placed on towing vehicles and pilot/escort vehicles for maximum visibility by other travelers.

39-0316-0701, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. (Temp & Prop) Clarifies that "combinations" hauling overwidth loads are double trailer combinations within the specified legal length limit.

39-0317-0701, Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers. (Temp & Prop) Allows less restrictive options for connection devices between a manufactured home and the towing

vehicle.

IDAPA 41 - PUBLIC HEALTH DISTRICTS

707 N. Armstrong Pl., Boise, ID 83704-0825

41-0401-0701, Public Health District 4 - Costs and Charges. Repeal of chapter.

IDAPA 54 - OFFICE OF THE STATE TREASURER

PO Box 83720, Boise, ID 83720-0091

54-0201-0701, Rules Governing the College Savings Program. Retains in rule only those items required by Title 33, Chapter 54, Idaho Code.

THE FOLLOWING TEMPORARY RULE HAS BEEN ADOPTED:

Department of Commerce

28-0304-0701, Rules of the Business and Jobs Development Grant Fund

NEGOTIATED RULEMAKING MEETINGS ARE BEING HELD ON THE FOLLOWING:

Department of Environmental Quality

58-0101-0703, Rules for the Control of Air Pollution in Idaho

Please refer to the Idaho Administrative Bulletin, **October 3, 2007, Volume 07-10** 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.

Sections Affected Index

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - Miscellaneous Provisions

Docket No. **17-0208-0702**

031. Acceptable Charges For Medical Services Under The Idaho Workers' Compensation Law..... 18

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.44 - Schedule of Fees, Licenses and Miscellaneous Charges

Docket No. **18-0144-0701 (Fee Rule)**

030. Producer And Miscellaneous Licensing Fees. 22

18.01.50 - Adoption of the 2003 International Fire Code

Docket No. **18-0150-0701**

001. Title And Scope..... 24
 004. Incorporation By Reference. 24
 016. Permit Required, Section 105.1.1, International Fire Code..... 24
 017. Violation Penalties, Section 109.3, International Fire Code. 24
 047. -- 051. (Reserved)..... 24
 052. Referenced Standards, Chapter 45, International Fire Code. 25
 053. -- 055. (Reserved)..... 26
 056. References To Appendix, International Fire Code. 26

18.01.53 - Continuing Education

Docket No. **18-0153-0701**

012. Basic Requirements. 28
 013. Exceptions/Extension..... 28
 021. Approved Programs Of Study - Certification By Director..... 28
 022. Proof Of Completion..... 29
 025. Credit For Service As Lecturer, Discussion Leader, Or Speaker..... 30

18.01.60 - Long-Term Care Insurance Minimum Standards

Docket No. **18-0160-0701**

027. Standards For Marketing And Producer Training. 32

IDAPA 19 - STATE BOARD OF DENTISTRY

19.01.01 - Rules of the State Board of Dentistry

Docket No. **19-0101-0701 (Fee Rule)**

012. License And Application Fees (Rule 12). 36

IDAPA 20 - DEPARTMENT OF LANDS

20.03.04 - Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

Docket No. **20-0304-0701 (Fee Rule)**

000. Legal Authority..... 40
 001. Title And Scope..... 40
 002. Written Interpretations. 40
 003. Administrative Appeals..... 40
 005. Office – Office Hours – Mailing Address And Street Address. 41
 006. Public Records Act Compliance. 41
 007. -- 009. (Reserved)..... 41
 010. Definitions. 41
 012. Policy..... 44
 013. -- 014. (Reserved)..... 44
 015. Encroachment Standards. 44
 016. -- 019. (Reserved)..... 49

020. Applications.....	49
021. -- 024. (Reserved).....	52
025. Processing Of Applications For Single-Family And Two-Family Navigational Encroachments Within Line Of Navigability.....	52
026. -- 029. (Reserved).....	53
030. Processing Of Applications For All Other Types Of Encroachments.....	54
031. -- 034. (Reserved).....	55
035. Temporary Permits.....	55
036. -- 049. (Reserved).....	56
050. Recordation.....	56
051. -- 054. (Reserved).....	56
055. Leases And Easements.....	56
056. -- 059. (Reserved).....	56
060. Installation.....	56
061. -- 064. (Reserved).....	58
065. Assignments.....	58
066. -- 069. (Reserved).....	58
070. Miscellaneous.....	58
071. -- 079. (Reserved).....	59
080. Violations - Penalties.....	59

**20.03.17 - Rules Governing Leases on State-Owned Submerged Lands and Formerly
Submerged Lands**

Docket No. **20-0317-0701 (Fee Rule)**

000. Authority.....	62
001. Title And Scope.....	62
002. Written Interpretations.....	62
003. Administrative Appeals.....	62
004. Incorporation By Reference.....	62
005. Office -- Office Hours -- Mailing Address And Street Address.....	62
006. Public Records Act Compliance.....	62
007. -- 009. (Reserved).....	62
010. Definitions.....	62
011. Abbreviations.....	64
012. -- 019. (Reserved).....	64
020. Applicability.....	64
021. -- 024. (Reserved).....	64
025. Policy.....	64
026. -- 029. (Reserved).....	66
030. Lease Application, Fee, And Procedure.....	66
031. -- 034. (Reserved).....	66
035. Rental.....	67
036. Yearly Reporting.....	67
037. -- 039. (Reserved).....	67
040. Late Payment, Extensions Of Payment.....	67
041. -- 044. (Reserved).....	67
045. Appraisal Procedures.....	68
046. -- 049. (Reserved).....	68
050. Lease Modification Or Amendment.....	68
051. -- 054. (Reserved).....	68
055. Assignments, Assignment Fee.....	68
056. -- 059. (Reserved).....	68
060. Cancellation And Additional Remedies.....	68

061. -- 064. (Reserved).....	69
065. Bond.....	69
075. Other Rules And Laws.....	69

IDAPA 22 - BOARD OF MEDICINE**22.01.01 - Rules Of The Board Of Medicine For The Licensure To Practice Medicine
And Surgery And Osteopathic Medicine And Surgery In Idaho****Docket No. 22-0101-0701 (Fee Rule)**

000. Legal Authority.....	72
005. Incorporation By Reference.....	72
008. Severability.....	72
009. (Reserved).....	72
010. Definitions.....	72
011. Abbreviations.....	73
012. -- 049. (Reserved).....	73
050. General Qualifications For Licensure And Renewal.....	73
051. Licensure For Graduates Of International Medical Schools Located Outside Of The United States And Canada.....	75
052. Graduates Of Unapproved International Medical Schools Located Outside The United States Or Canada.....	77
077. Inactive License.....	77
078. Licenses.....	78
079. Continuing Medical Education (CME) Required.....	78
080. Volunteer License.....	78
081. -- 099. (Reserved).....	79
100. Fees. -- Table.....	79
101. Additional Grounds For Suspension, Revocation Or Disciplinary Sanctions.....	80

**22.01.02 - Rules of the Board of Medicine for the Registration of Externs, Interns,
and Medical Residents****Docket No. 22-0102-0701 (Fee Rule)**

000. Legal Authority.....	83
001. Title And Scope.....	83
002. Written Interpretations.....	83
003. Administrative Appeal.....	83
004. Public Record Act Compliance.....	83
005. Incorporation By Reference.....	83
006. Office -- Office Hours -- Mailing Address And Street Address.....	83
007. Filing Of Documents -- Number Of Copies.....	83
008. Severability.....	83
009. (Reserved).....	83
010. Definitions.....	83
011. -- 015. (Reserved).....	84
016. Requirements For Registration Of Externs, Interns, And Residents.....	84
017. General Provisions For Registration.....	85
018. Fees.....	86
019. Effective Date.....	86
020. -- 999. (Reserved).....	86

**22.01.11 - Rules for Licensure of Respiratory Therapists and Permitting
of Polysomnographers in Idaho****Docket No. 22-0111-0701 (Fee Rule)**

000. Legal Authority.....	88
008. Severability.....	88

009. (Reserved)	88
010. Definitions	88
011. Board Of Medicine And Licensure Board	91
031. General Provisions For Licensure And Permits	92
032. Application For Licensure And Permits	93
033. Licensure Exemption For Respiratory Care Practitioners	96
034. License Expiration And Renewal	97
035. Denial Or Refusal To Renew License Or Permit Or Suspension Or Revocation Of License Or Permit	97
036. -- 045. (Reserved)	99
046. Fees	99
047. -- 050. (Reserved)	100
IDAPA 23 - BOARD OF NURSING	
23.01.01 - Rules of the Idaho Board of Nursing	
Docket No. 23-0101-0702	
132. Limited Licenses	102
IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES	
24.03.01 - Rules of the State Board of Chiropractic Physicians	
Docket No. 24-0301-0702	
011. -- 019. (Reserved)	107
020. Scope Of Practice (Rule 20)	107
022. -- 099. (Reserved)	107
100. Applications (Rule 100)	107
300. Renewal Requirement (Rule 300)	107
301. -- 349. (Reserved)	108
350. Continuing Education (Rule 350)	108
24.04.01 - Rules of the Idaho Board of Cosmetology	
Docket No. 24-0401-0701	
010. Definitions (Rule 10)	110
200. Applications (Rule 200)	110
201. -- 249. (Reserved)	111
250. Establishing Equivalency In Lieu Of The Required High School Education (Rule 250)	111
400. Requirements For Licensure By Examination - General. (Rule 400)	112
450. Examinations - General (Rule 450)	112
451. -- 499. (Reserved)	113
550. Rules For Cosmetology Schools Approved To Teach Electrology (Rule 550)	114
551. -- 559. (Reserved)	116
560. Rules For Cosmetology Schools Teaching Esthetics (Rule 560)	116
561. -- 569. (Reseed). 116	
570. Rules For Cosmetology Schools Teaching Nail Technology (Rule 570)	116
700. Cosmetology -- Electrology, Esthetics, And Nail Technology Apprentice Instruction (Rule 700)	117
24.05.01 - Rules of the Board of Drinking Water and Wastewater Professionals	
Docket No. 24-0501-0701	
010. Definitions (Rule 10)	119
300. Requirements For License (Rule 300)	120
500. Continuing Education (Rule 500)	123
501. -- 599. (Reserved)	125
600. Renewal Or Reinstatement Of License (Rule 600)	125

24.07.01 - Rules of the Idaho State Board of Landscape ArchitectsDocket No. **24-0701-0701 (Fee Rule)**

004. Incorporation By Reference (Rule 4).....	126
005. Address Of Idaho Board Of Landscape Architects (Rule 5).....	127
250. Landscape Architect-in-Training (Rule 250).....	127
400. Fees (Rule 400).	127

24.08.01 - Rules of the State Board of MorticiansDocket No. **24-0801-0701**

325. Approved Examination (Rule 325).	128
450. Funeral Establishment And Crematory Establishment (Rule 450).....	129
451. (Reserved).	130

24.09.01 - Rules of the Board of Examiners of Nursing Home AdministratorsDocket No. **24-0901-0701**

200. Educational And Training Requirements (Rule 200).	132
400. Nursing Home Administrators-In-Training (Rule 400).	133

24.11.01 - Rules of the State Board of PodiatryDocket No. **24-1101-0701**

400. Licensure By Examination (Rule 400).....	135
403. -- 409. (Reserved).....	136
411. -- 449. (Reserved).	136
700. Continuing Education (Rule 700).	136

24.14.01 - Rules of the State Board of Social Work ExaminersDocket No. **24-1401-0701**

201. Practice Of Social Work.	137
202. Social Work Supervisor Registration (Rule 202).	139
350. Examinations, Endorsement, And Board Meetings (Rule 350).....	140
450. Statement Of Public Policy And Code Of Professional Conduct (Rule 450).	141

24.15.01 - Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family TherapistsDocket No. **24-1501-0701 (Fee Rule)**

150. Qualifications For Professional Counselor Licensure (Rule 150).....	145
238. Marriage And Family Therapists (Rule 238).....	147
245. Registered Interns (Rule 245).	148
246. -- 249. (Reserved).....	148
250. Fees (Rule 250).	148
251. -- 299. (Reserved).....	149
300. Endorsement (Rule 300).	149
351. -- 359. (Reserved).	150
361. -- 374. (Reserved).	150
376. -- 399. (Reserved).....	151
425. Continuing Education (Rule 425).	151

24.16.01 - Rules of the State Board of DentistryDocket No. **24-1601-0701**

300. Internship (Rule 300).....	152
450. Standards Of Conduct And Practice (Rule 450).....	154

24.17.01 - Rules of the Idaho State Board of AcupunctureDocket No. **24-1701-0701**

010. Definitions (Rule 10).....	156
---------------------------------	-----

200. Qualifications For Licensure (Rule 200).....	157
24.18.01 - Rules of the Real Estate Appraiser Board	
Docket No. 24-1801-0701	
010. Definitions (Rule 10).....	160
250. Requirements For Licensure (Rule 250).	161
276. -- 299. (Reserved).....	163
350. Certified Residential Real Estate Appraiser Classification Appraiser Qualification Criteria (Rule 350).	165
351. -- 399. (Reserved).....	166
400. Certified General Real Estate Appraiser Classification Appraiser Qualification Criteria (Rule 400).	166
401. Continuing Education (Rule 401).	167
24.22.01 - Rules of the Idaho State Liquefied Petroleum Gas Safety Board	
Docket No. 24-2201-0701	
004. Incorporation By Reference (Rule 4).....	168
350. Facility Licensure (Rule 350).....	169
351. -- 354. (Reserved).....	169
355. General Liability Insurance Requirement (Rule 355).	169
356. -- 374. (Reserved).....	169
375. Inspection Rules (Rule 375).....	169
24.23.01 - Rules Governing the Idaho Board of Speech and Hearing Services	
Docket No. 24-2301-0701	
201. -- 209. (Reserved).....	170
210. Qualifications For Audiologist Licensure (Rule 210).	170
211. -- 219. (Reserved).	171
220. Qualifications For Speech-Language Pathologist Licensure (Rule 220).....	171
221. -- 229. (Reserved).	171
230. Qualifications For Speech-Language Pathologist Aide Licensure (Rule 230).....	171
231. -- 239. (Reserved).	171
240. Qualifications For Speech-Language Pathologist Assistant Licensure (Rule 240).	171
241. -- 249. (Reserved).	172
250. Qualifications For Hearing Aid Dealer And Fitter Licensure (Rule 250).....	172
251. -- 299 (Reserved).	172
450. Provisional Permit (Rule 450).	172
24.24.01 - Rules of the Board of Naturopathic Medical Examiners	
Docket No. 24-2401-0701 (New Chapter - Fee Rule)	
000. Legal Authority (Rule 0).	175
001. Title And Scope (Rule 1).	175
002. Written Interpretations (Rule 2).	175
003. Administrative Appeals (Rule 3).....	175
004. Incorporation By Reference (Rule 4).....	175
005. Address Of Idaho Board Of Naturopathic Medical Examiners (Rule 5).	175
006. Public Records Act Compliance (Rule 6).	175
007. Filing Of Documents - Number Of Copies (Rule 7).	175
008. -- 009. (Reserved).	175
010. Definitions (Rule 10).	175
011. -- 099. (Reserved).	177
100. Scope Of Practice (Rule 100).	177
101. -- 109. (Reserved).....	177
110. Special Competency Certification (Rule 110).....	177

111. -- 124. (Reserved)	178
125. Qualifications For Licensure (Rule 125).....	178
126. -- 129. (Reserved)	179
130. Approved Programs Of Naturopathic Medicine (Rule 130).....	179
131. -- 134. (Reserved)	180
135. Approved Naturopathic Examination (Rule 135).....	180
136. -- 149. (Reserved).....	180
150. Licenses (Rule 150).....	180
151. -- 199. (Reserved)	181
200. Licensure By Endorsement (Rule 200).....	181
201. -- 249. (Reserved).....	181
250. Continuing Naturopathic Education (CNE) Required (Rule 250).....	181
251. -- 299. (Reserved)	182
300. Fees (Rule 300).....	182
301. -- 349. (Reserved)	182
350. Additional Grounds For Suspension, Revocation Or Disciplinary Actions And Sanctions. (Rule 350).....	182
351. -- 999. (Reserved).....	183

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**26.01.20 - Rules Governing the Administration of Park and Recreation Areas and Facilities**Docket No. **26-0120-0701**

010. Definitions	185
401. Operational Guidelines For Non-traditional Recreational Activities.....	185
402. -- 449. (Reserved).....	185
576. Protection Of Historical, Cultural And Natural Resources.....	185

26.01.30 - Idaho Safe Boating RulesDocket No. **26-0130-0701**

525. Negligent Operation.....	187
-------------------------------	-----

IDAPA 27 - BOARD OF PHARMACY**27.01.01 - Rules of the Idaho State Board of Pharmacy**Docket No. **27-0101-0703**

321. Definitions.....	189
322. Wholesale Drug Distributor Licensing Requirement.....	192
323. Minimum Requirements For Licensure.....	192
324. Minimum Qualifications.....	194
325. Personnel.....	195
326. Minimum Requirements.....	195
327. Written Policies And Procedures.....	197
328. Responsible Persons.....	198
331. Pedigree.....	198
332. Failure To Comply.....	199
333. -- 350. (Reserved).....	199

Docket No. **27-0101-0705**

497. Information From Controlled Substances Prescription Database.....	201
498. -- 999. (Reserved).....	202

IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE**28.02.03 - Rules of the Idaho Regional Travel and Convention Grant Program**Docket No. **28-0203-0701**

010. Definitions, Regional/Local/Special Interest Promotion.....	204
--	-----

200. Multi-Regional Promotion.....	206
203. Ineligible Projects.....	207
209. Bid Process.....	207
222. Plan Selection.....	208

IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE**28.03.04 - Rules of the Business and Jobs Development Grant Fund**Docket No. **28-0304-0701**

015. Award Amounts.....	209
-------------------------	-----

IDAPA 29 - IDAHO POTATO COMMISSION**29.01.01 - Rules of Procedure of the Idaho Potato Commission**Docket No. **29-0101-0701**

002. Written Interpretations -- Agency Guidelines (Rule 2).....	211
012. Office -- Office Hours -- Mailing Address And Street Address (Rule 12).....	211
241. Notice Of Hearing (Rule 241).....	211
286. Transcripts (Rule 286).....	211

29.01.02 - Rules Governing Payment of Tax and Usage Of Federally Registered trademarksDocket No. **29-0102-0701**

001. Title And Scope.....	215
002. Written Interpretations -- Agency Guidelines.....	215
005. Office -- Office Hours -- Mailing Address And Street Address.....	215
006. Public Records Act Compliance.....	216
100. General.....	216
102. Certification Marks For Idaho® Potato Containers.....	218
103. Branding, And Grade And Packaging Requirements Of State Brand.....	220
104. Reporting, Labeling And Revocation.....	221
105. Additional Labeling Requirements, Potatoes (Rule 105).....	223
106. Additional Requirements For Use Of Trademarks (Rule 106).....	224
107. -- 999. (Reserved).....	224

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**31.12.01 - Systems of Accounts for Public Utilities Regulated By the Idaho Public Utilities Commission**Docket No. **31-1201-0701**

008. Incorporation By Reference (Rule 8).....	227
009. -- 100. (Reserved).....	227
101. Uniform System Of Accounts For Electric Utilities (Rule 101).....	227
102. Uniform System Of Accounts For Gas Utilities (Rule 102).....	227
103. Uniform System Of Accounts For Telephone Utilities (Rule 103).....	227
104. Uniform System Of Accounts For Water Utilities (Rule 104).....	228

31.21.01 - Customer Relations Rules for Gas, Electric and Water Public Utilities Regulated by The Idaho Public Utilities Commission (The Utility Customer Relations Rules)Docket No. **31-2101-0701**

105. Amount Of Deposit (Rule 105).....	230
203. Billing Under Inappropriate Tariff Schedule (Rule 203).....	230
204. Inaccurately Billed Service Under Correct Tariff Schedule -- Failure To Bill For Service (Rule 204).....	231
300. Further Definitions (Rule 300).....	232
302. Grounds For Denial Or Termination Of Service With Prior Notice (Rule 302).....	232
310. Insufficient Grounds For Termination OR DENIAL Of Service (Rule 310).....	233

311.	Times When Service May Be Denied Or Terminated -- Opportunity To Avoid Termination Of Service (Rule 311).....	233
403.	Record Of Complaints (Rule 403).....	234
600.	Definitions (Rule 600).....	235
31.71.03 - Railroad Safety/Sanitation Rules		
Docket No. 31-7103-0701		
001.	Title And Scope (Rule 1).....	238
004.	Public Records Act Compliance (Rule 4).....	238
006.	Citation (Rule 6).....	238
007.	Effective Date -- History Of Rules (Rule 7).....	238
008.	Incorporation By Reference - Code Of Federal Regulations (Rule 008).....	239
103.	Transportation Of Hazardous Material By Rail (Rule 103).....	239
104.	REPORTING OF RAILROAD ACCIDENTS (RULE 104).....	239
105.	-- 999. (Reserved).....	239

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
33.01.01 - Rules of the Idaho Real Estate Commission

Docket No. 33-0101-0703		
121.	Failure To Maintain Insurance.....	243

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - Income Tax Administrative Rules

Docket No. 35-0101-0701		
006.	Incorporation By Reference (Rule 006).....	246
031.	Aliens (Rule 031).....	247
032.	Members Of The Uniformed Services (Rule 032).....	247
075.	Tax On Individuals, Estates, And Trusts (Rule 075).....	249
108.	Adjustments To Taxable Income -- Additions Required Only Of Individuals (Rule 108).....	253
121.	Adjustments To Taxable Income -- Subtractions Available Only To Individuals (Rule 121).....	254
123.	-- 124. (Reserved).....	256
125.	Adjustments To Taxable Income -- Bonus Depreciation (Rule 125).....	256
126.	-- 127. (Reserved).....	257
255.	Nonresident And Part-Year Resident Individuals -- Proration Of Exemptions And Deductions (Rule 255).....	257
275.	Investment Income From Qualified Investment Partnerships (Rule 275).....	258
281.	-- 284. (Reserved).....	259
285.	S Corporations (Rule 285).....	259
286.	S Corporations Operating Within And Without Idaho (Rule 286).....	260
287.	(Reserved).....	260
582.	Special Rules -- Financial Institutions (Rule 582).....	260
641.	Water's Edge -- Elements Of A Combined Report (Rule 641).....	262
700.	Credit For Income Taxes Paid Another State Or Territory -- in general (Rule 700).....	263
714.	Idaho Investment Tax Credit -- Credit Earned On Property Used Both In And Outside Idaho In Taxable Years Beginning On Or After January 1, 1995 (Rule 714).....	264
746.	Credit For Qualifying New Employees -- Calculations Used To Determine The Credit And Credit Carryover (Rule 746).....	265
764.	(Reserved).....	267
765.	Biofuel Infrastructure Investment Tax Credit -- In General (Rule 765).....	267
766.	Biofuel Infrastructure Investment Tax Credit -- Recapture (Rule 766).....	269
767.	Biofuel Infrastructure Investment Credit -- Record-Keeping Requirements (Rule 767).....	269
768.	-- 769. (Reserved).....	270
799.	Priority Order Of Credits And Adjustments To Credits (Rule 799).....	270

800. Valid Income Tax Returns (Rule 800).....	271
880. Credits And Refunds (Rule 880).	272
946. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation -- Recapture (Rule 946).	273
 35.01.02 - Sales Tax Administrative Rules	
Docket No. 35-0102-0603	
068. Collection Of Tax (Rule 068).	276
Docket No. 35-0102-0701	
010. Definitions (Rule 010).....	279
015. Well Drillers/Pump Installers (Rule 015).....	280
041. Food, Meals, Or Drinks (Rule 041).	282
058. Sales Through Vending Machines (Rule 058).....	284
063. Bad Debts And Repossessions (Rule 063).	286
073. Tangible Personal Property Brought Or Shipped To Idaho (Rule 073).....	288
085. Sales To And Purchases By Nonprofit Organizations (Rule 085).	289
106. Motor Vehicles Sales, Rentals, And Leases (Rule 106).....	291
107. Vehicles And Vessels -- Gifts, Military Personnel, Nonresident, New Resident, Tax Paid To Another State, Sales To Family Members, Sales To American Indians, And Other Exemptions (Rule 107).....	293
109. Amusement Devices (Rule 109).	297
117. Refund Claims (Rule 117).	298
135. Snowgrooming And Snowmaking Equipment (Rule 135).	299
136. Rebates Paid To Certain Real Estate Developers (Rule 136).	299
137. -- 999. (Reserved).....	299
 35.01.03 - Property Tax Administrative Rules	
Docket No. 35-0103-0701	
802. Budget Certification Relating To New Construction And Annexation (Rule 802).	301
803. Budget Certification -- Dollar Certification Form (L-2 Form) (Rule 803).	302
 35.01.03 - Idaho Property Tax Administrative Rules	
Docket No. 35-0103-0702	
006. Incorporation By Reference (Rule 006).....	310
131. Use Of Ratio Study To Test For Equalization In Counties (Rule 131).	311
206. -- 216. (Reserved).....	319
217. Rules Pertaining To Market Value Duty Of County Assessors (Rule 217).	319
314. County Valuation Program To Be Carried On By Assessor (Rule 314).	320
315. Use Of Ratio Study To Equalize Boise School District (Rule 315).	322
404. Operator's Statement -- Contents (Rule 404).....	324
405. Assessment Of Operating Property (Rule 405).....	325
415. Apportionment Of Railcar Fleet's Assessed Values Within The State (Rule 415).....	327
509. City, County, And School District Abstracts Of Value And Identification Of Urban Renewal Increment And Partial Exemption Values (Rule 509).....	327
510. Secondary Categories For Land - Listing And Reporting (Rule 510).	328
511. Secondary Categories For Improvements - Listing And Reporting (Rule 511).	331
601. -- 602. (Reserved).....	334
603. Property Exempt From Taxation -- Religious Corporations Or Societies (Rule 603).	334
604. -- 608. (Reserved).	334
609. Property Exempt From Taxation -- Homestead (Rule 609).	334
610. Property Exempt From Taxation -- Residential Improvements -- Special Situations (Rule 610).	336
645. Land Actively Devoted To Agriculture Defined (Rule 645).	338
700. Definitions For Property Tax Reduction Benefit (Rule 700).....	340
701. How To Verify That Claimants Are Lawfully Present In The United States (Rule 701).....	342

702. -- 708. (Reserved).....	343
717. Procedure After Claim Approval (Rule 717).....	344
804. Tax Levy -- Certification -- Urban Renewal Districts (Rule 804).....	346
805. Penalty For Failure To Provide Notice Of Budget Hearing (Rule 805).....	349
808. (Reserved).....	349
809. Correction Of Erroneous Levy (Rule 809).....	349
810.(Reserved).....	349
811. Computation Of Property Taxes (Rule 811).....	349
812. -- 901. (Reserved).....	350
966. Recapture Of Deferred Taxes On Lands Designated Under Section 63-1706, Idaho Code (Rule 966).....	350
35.01.05 - Idaho Motor Fuels Tax Administrative Rules	
Docket No. 35-0105-0701	
105. Licensed Gaseous Fuels Distributor's Reports (Rule 105).....	352
130. Distributor's Fuel Tax Reports (Rule 130).....	354
140. Deductions (Rule 140).....	356
160. Aircraft Engine Fuel Tax (Rule 160).....	358
180. Refunds To Licensed Fuel Distributors (Rule 180).....	358
270. Refund Claims -- Documentation (Rule 270).....	359
292. Calculation Of Refunds For Nontaxable Uses Of Motor Fuels In Motor Vehicles. (Rule 292).....	360
510. Application And Reporting Of The Petroleum Transfer Fee (Rule 510).....	363
Docket No. 35-0105-0702	
170. Additional Information (Rule 170).....	366
250. Refund Claims -- Reporting (Rule 250).....	367
501. Petroleum Transfer Fee Reinstated (Rule 501).....	367
35.01.09 - Idaho Kitchen and Table Wine Tax Administrative Rules	
Docket No. 35-0109-0701	
013. Breakage Or Spoilage (Rule 013).....	368
35.01.10 - Idaho Cigarette and Tobacco Tax Administrative Rules	
Docket No. 35-0110-0701	
010. Definitions (Rule 010).....	369
013. Shipments In Interstate Commerce (Rule 013).....	369
014. Shipments Delivered On Indian Reservations (Rule 014).....	369
022. Exemptions (Rule 022).....	370
35.01.11 - Idaho Unclaimed Property Administrative Rules	
Docket No. 35-0111-0701	
010. Definitions (Rule 010).....	373
35.02.01 - Tax Commission Administration and Enforcement Rules	
Docket No. 35-0201-0701	
155. Tax Returns And Other Documents Filed Electronically (Rule 155).....	375
310. Interest Rates (Rule 310).....	376
IDAPA 37 - DEPARTMENT OF WATER RESOURCES	
37.03.01 - Adjudication Rules	
Docket No. 37-0301-0701 (Fee Rule)	
001. Title And Scope (Rule 1).....	378
002. -- 009. (Reserved).....	378
010. Definitions (Rule 10).....	378
011. -- 024. (Reserved).....	379

025. General (Rule 25).....	379
026. -- 029. (Reserved).....	380
030. Flat Fees (Rule 30).....	380
031. -- 034. (Reserved).....	381
035. Variable Fees (Rule 35).....	381
036. -- 044. (Reserved).....	385
045. Amendment Fees (Rule 45).....	385
046. -- 049. (Reserved).....	385
050. Late Fees (Rule 50).....	385
060. Sufficiency Of Claims (Rule 60).....	385

IDAPA 38 - DEPARTMENT OF ADMINISTRATION***38.05.01 - Rules of the Division of Purchasing***Docket No. **38-0501-0701**

003. Administrative Appeals.....	397
041. Procedure Followed In The Solicitation Of Bids And Proposals.....	397
044. Small Purchases.....	397
112. -- 999. (Reserved).....	398

38.05.02 - Rules Governing Contested Case Hearings on Bid Appeals at the Division of PurchasingDocket No. **38-0502-0701 (New Chapter)**

000. Legal Authority.....	403
001. Title And Scope.....	403
002. Written Interpretations.....	403
003. Contested Case Hearings.....	403
004. Exemption From Attorney General's Administrative Procedure Rules For Contested Cases....	403
005. Reasons For Exemption From Attorney General's Administrative Procedure Rules.....	403
006. Incorporation By Reference.....	403
007. Office -- Office Hours -- Mailing And Street Address.....	403
008. Public Records Act Compliance.....	403
009. (Reserved).....	403
010. Definitions.....	404
011. -- 030. (Reserved).....	404
031. Filing Of Appeal.....	404
032. Notice Of Contested Case Hearing.....	404
033. Briefs And Memoranda.....	404
034. Rules Of Evidence.....	404
035. Admission Of Evidence.....	404
036. Testimony.....	404
037. Discovery.....	404
038. Recording And Transcription.....	404
039. Witnesses And Evidence.....	405
040. Findings Of Fact And Conclusions Of Law.....	405
041. Final Order.....	405
042. Motions For Reconsideration.....	405
043. Appeals.....	405
044. -- 999. (Reserved).....	405

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT***39.02.60 - Rules Governing License Plate Provisions***Docket No. **39-0260-0701**

001. Title And Scope.....	407
---------------------------	-----

002. Written Interpretations.....	407
003. Administrative Appeals.....	407
004. Incorporation By Reference.....	407
005. Office -- Office Hours -- Mailing And Street Address -- Phone Numbers.....	407
006. Public Records Act Compliance.....	407
007. -- 009. (Reserved).....	407
011. License Plate Provisions For All License Plates.....	408
012. Temporary Registration For New, Replacement, Or Reissued License Plates.....	408
013. -- 099. (Reserved).....	408
100. License Plate Provisions For Standard Plates.....	408
151. Vehicle Dealer License Plates Restrictions.....	409
152. Vehicle Dealer Loaner Plates.....	409
153. Vehicle Dealer Transporter Registration And Plate.....	410
154. -- 198. (Reserved).....	411
199. License Plate Provisions For Special Program And Personalized Plates For Trailers.....	411
200. License Plate Provisions For Special Plates.....	411
201. Provisions For Legislative License Plates.....	412
202. Provisions For Personalized License Plates.....	412
203. Provisions For Former Prisoner Of War (POW) License Plates.....	414
204. -- 299. (Reserved).....	414
300. Provisions For Sample Plates.....	414

39.02.75 - Rules Governing Names on Drivers' Licenses and Identification CardsDocket No. **39-0275-0701**

000. Legal Authority.....	417
001. Title And Scope.....	417
002. Written Interpretations.....	417
003. Administrative Appeals.....	417
004. Incorporation By Reference.....	417
005. Office - Office Hours - Mailing And Street Address - Phone Numbers.....	417
006. Public Records Act Compliance.....	417
007. -- 099. (Reserved).....	417
100. General Provisions.....	417
101. -- 199. (Reserved).....	418
200. Criteria.....	418

39.03.10 - Rules Governing When an Overlegal Permit Is RequiredDocket No. **39-0310-0701**

002. Written Interpretations.....	422
003. Administrative Appeals.....	422
004. Incorporation By Reference.....	422
005. Office -- Office Hours -- Mailing And Street Address -- Phone Numbers.....	422
006. Public Records Act Compliance.....	422
007. -- 009. (Reserved).....	422
010. Definitions.....	422
011. -- 099. (Reserved).....	422
100. General.....	422
300. Waiver Of Limitations For Emergency Movements.....	422
301. -- 399. (Reserved).....	424
400. Overlegal Permits For Self Propelled Vehicles.....	424

39.03.12 - Rules Governing Safety Requirements of Overlegal PermitsDocket No. **39-0312-0701**

002. Written Interpretations.....	426
003. Administrative Appeals.....	426
004. Incorporation By Reference.....	426
005. Office -- Office Hours -- Mailing And Street Address -- Phone Numbers.....	426
006. Public Records Act Compliance.....	426
007. -- 009. (Reserved).....	426
010. Definitions.....	426
300. Signing Requirements Of Towing Vehicles, Oversize Vehicles And/Or Loads.....	426
500. Pilot/Escort Vehicle Sign Requirements.....	427
900. Convoy Of Overlegal Loads.....	427
 39.03.16 - Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads	
Docket No. 39-0316-0701	
010. Definitions.....	429
011. -- 099. (Reserved).....	429
100. General Oversize Limitations.....	429
 39.03.17 - Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers	
Docket No. 39-0317-0701	
010. Definitions.....	431
200. Manufactured Homes And Office Trailers Being Towed.....	431
201. Vehicles For Towing Manufactured Homes And Office Trailers.....	432
 IDAPA 54 - OFFICE OF THE STATE TREASURER	
54.02.01 - Rules Governing the College Savings Program	
Docket No. 54-0201-0701	
000. Legal Authority.....	435
001. Title And Scope.....	435
002. Written Interpretations.....	435
003. Administrative Appeals.....	435
005. Office -- Mailing Address -- Telephone And Facsimile Numbers.....	435
007. -- 009. (Reserved).....	435
010. Definitions.....	435
011. -- 029. (Reserved).....	437
030. Withdrawals.....	437
031. -- 039. (Reserved).....	438
040. Account Balance Limit On Contributions.....	438
041. -- 999. (Reserved).....	439

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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

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

Subject Index

A

- ADA Accessible Facilities,
 - Definitions 185
- ADA Campsites & Facilities,
 - Definitions 185
- ATONs 48
- Abide by Laws, Rules & Code of Ethics,
 - Endorsement 149
- Abstracts of Value for the Boise School District 323
- Acceptability of Plates Message,
 - Personalized License Plates 413
- Acceptable Charge, Medical Services Under the Idaho Workers' Compensation Law 18
- Acceptable Charges For Medical Services Under The Idaho Workers' Compensation Law 18
- Acceptable International School of Medicine 72
- Acceptable Post Graduate Training Program 84
- Acceptable School of Medicine 72
- Acceptable Training Program 84
- Access to Online Prescription Monitoring Program 201
- Account Balance Limit On Contributions 438
- Account Balance Limit on Contributions 435
- Account Owner 436
- Accounting Records Subject to Examination 269
- Accreditation Council for Graduate Medical Education (ACGME) 72, 84
- Accreditation by VAWD 194
- Acknowledgment of Data Transmissions, Taxes Filed Electronic 376
- Act Defined 262
- Act or NPLA 175
- Active Duty Military Pay, Armed Forces 248
- Active Status 107
- Additional Grounds For Suspension,
 - Revocation Or Disciplinary Actions & Sanctions 182
- Additional Grounds For Suspension,
 - Revocation Or Disciplinary Sanctions 80
- Additional Grounds for Discipline 202
- Additional Information, Diesel Fuel Dyed & Undyed 366
- Additional Labeling Requirements, Fresh Potatoes 223
- Additional Nontaxable Roadways,
 - Nontaxable Uses of Motor Fuels 361
- Additional Payments 231
- Additional Remedies Available 69
- Additional Requirements For Use Of Trademarks 224
- Adequate Personal Contact - Requirements, Provisional Permit 172
- Adjacent 41
- Adjacent Littoral Owners, Navigational Encroachment Applications 52
- Adjustments To Taxable Income -- Additions Required Only Of Individuals 253
- Adjustments To Taxable Income -- Subtractions Available Only To Individuals 254
- Adjustments to Credits, Priority Order of Credits & Adjustments to Credits 271
- Administrative Appeals 417
- Administrative Fees for Services 80
- Administrator 404
- Admission of Evidence 404
- Adoption Expenses, Subtractions Available Only to Individuals 255
- Adoption of Federal Safety Regulations, Transportation of Hazardous Material by Rail 239
- Adoption of MTC Recommended Formula for the Apportionment & Allocation of Net Income of Financial Institutions 260
- Advertising 204
- Advisory Committee 160
- Agreement 224
- Agreement, Use of Certification Marks 218
- Airborne, Negligent Operation 187
- Aircraft 279
- Aircraft Engine Fuel Tax 358
- Aliens 247
- Alternate Supervising Physician 84
- Alternative Energy Devices,
 - Subtractions Available Only to Individuals 255
- Alternative Funding Sources 207
- Amended Federal Return, Credit or Refunds 273
- Amended Returns Required as Refund Claims 272
- Amendment Fee 378
- Amendment Fees 385
- Amount Of Deposit 230
- Amount Subject to Tax, Sales Through Vending Machines 284
- Amount of Credit Allowed, Bad Debts & Repossessions 287
- Amusement Devices 297
- Annual Fees for Gaseous Fuels Permits, Propane & Natural Gas 353
- Annual Reconciliation of Gaseous Fuels Receipt Books & Decals, Distributor Who Sells Gaseous Fuels Permits 354
- Annual Renewal Fee 149, 182
- Annual Renewal Fee for Inactive License 149
- Annual Renewal Fee for Senior Status 149
- Appeal Procedures, Licensed Fuel Distributors Claim for Tax Refund 358
- Appeals 405
- Applicability 64
- Applicant 72, 175, 232, 235
- Applicant Without Service - Customer Requested Termination 234
- Application 93, 178
- Application - Quarterly Reports, Provisional Permit 173
- Application & Reporting Of The Petroleum Transfer Fee 363
- Application Fee 127, 148, 182
- Application Fees for Dental Hygienists 36
- Application Fees for Dentists 36
- Application Fees for General Anesthesia & Conscious Sedation Permits 36
- Application For Licensure & Permits 93
- Application Must be Accompanied by Proof of Meeting Educational Requirements, Apprentice Training 117
- Application for Apprentice, 117
- Application for Exception or Extension

- Required 28
Application for Inactive License 94
Application for License by Examination 111
Application for Polysomnography Related Respiratory Care Practitioner 94
Application for Respiratory Care & Polysomnography Related Respiratory Care Practitioner 94
Application for Respiratory Care Practitioner 93
Application of Credits 259
Application to Lease & Fee 66
Application to Taxpayers, Bad Debts & Repossessions 286
Application, Volunteer License 79
Applications 49, 107, 110
Applications Must be Complete to be Accepted 111
Apportionment Of Railcar Fleets Assessed Values Within The State 327
Apportionment of Homeowner's Exemption by Dual Residency Couples 338
Appraisal Approaches, Assessment of Operating Property 326
Appraisal Approaches, Three Approaches to Value 319
Appraisal Foundation 160
Appraisal Procedures 68
Appraisal Procedures, Assessment of Operating Property 326
Appraisal Procedures, Market Value 319
Appraisal Standards Board 160
Appraiser Qualifications Board 160
Apprentice License, Apprentice Training 118
Appropriate County & Boise School District Abstracts to Balance 327
Approval Required for Assignment 58
Approved Acupuncture Program 157
Approved Examination 128
Approved Examinations 180
Approved Naturopathic Examination 180
Approved Programs 182
Approved Programs Of Naturopathic Medicine 179
Approved Programs Of Study - Certification By Director 28
Aquaculture 378
Aquaculture Fee 378
Artificial High Water Mark 41, 63
Assessment Of Operating Property 325
Assessment for Unaccounted for Decals, Destroyed or Mutilated 354
Assessor to Identify Boise School Districts 323
Assignment Fee 58, 68
Assignment With New Permit 58
Assignment of Encroachment Permit 58
Assignments 58, 68
Audiologist Licensure 170
Authentication 199
Authority 201
Authorized Distributor of Record 189
Availability of Records for Inspection 199
Axles, Manufactured Homes & Office Trailers Being Towed 431
- B**
- Baccalaureate Social Work 137
Backflow Assembly Testers, Renewal or Reinstatement of License 125
Bad Debt Collected at a Later Date 288
Bad Debt Write-Off, Distributor Fuel Tax 357
Bad Debts & Repossessions 286
Bad Debts, Refund Claims 298
Bare Forestland, Listing & Reporting 329
Basic Requirements 28
Beds of Navigable Lakes 41
Before Resuming Training, Apprentice Training 118
Bid Process 207
Bidder 404
Biennial License Fees for Dentists 36
Biennial License Fees for Hygienists 36
Billing Under Inappropriate Tariff Schedule 230
Biofuel Infrastructure Investment Tax Credit 267
Board Approval, Cosmetology Schools Approved to Teach Electrology 115
Board Approval, Cosmetology Schools Teaching Esthetics 116
Board Approval, Cosmetology Schools Teaching Nail Technology 116
Board Approved Accrediting Bodies 175
Board Meetings 140
Board Of Medicine & Licensure Board 91
Board of Registered Polysomnographic Technologists 88
Board, Definitions 185
Boarding Houses, Food, Meals, or Drinks 283
Bond 69
Box Type Containers, Certification Marks 219
Bracket System for Five Percent Tax Rate, Collected by a Retailer 276
Brakes, Manufactured Homes & Office Trailers Being Towed 431
Brakes, Vehicles for Towing Manufactured Homes & Office Trailers 432
Branding, Grade & Packaging Requirements Of State Brand 220
Breakage Or Spoilage 368
Briefs & Memoranda 404
Budget Certification - Dollar Certification Form (L-2 Form) 302
Budget Certification Relating To New Construction & Annexation 301
Budget Certification Requested Documents, L-2 Format 304
Bulk Sale Transfers, Motor Vehicles 296
Bureau 110
Business & Jobs Development Grant Fund 209
- C**
- CFS 378
Calculating Number of Employees, Credit for Qualifying New Employees -- Calculations Used to Determine the Credit & Credit Carryover 265
Calculation Of Refunds For Nontaxable Uses Of Motor Fuels In Motor Vehicles 360
Calculation of Tax Due 217
Calculation of Tax, Sales Through Vending Machines 284
Calculation, Nontaxable Uses of Motor Fuels 361
Camping Unit, Definitions 185

- Cancellation & Additional Remedies 68
Cancellation of Lease for Use Other Than Intended Purpose 69
Cancellation of Lease for Violation of Terms 68
Capital Gains, Subtractions Available Only to Individuals 255
Capital Outlay 204, 207
Carryover, Credit for Qualifying New Employees -- Calculations Used to Determine the Credit & Credit Carryover 267
Carryovers 268
Cash Discount 279
Casualty Loss & Shrinkage Not Deductible, Application & Reporting of the Petroleum Transfer Fee 363
Cease & Desist Order 59
Centennial License Plates, License Plate Provisions for Special Plates 412
Certificate of Graduation 110
Certification 157
Certification Marks For Idaho® Potato Containers 218
Certification of Completed Electronic Property Tax Reduction Roll by County Auditor 345
Certification of Electronic Property Tax Reduction Roll by County Assessor 344
Certification of Values 324
Certified Documentation, POW License Plates 414
Certified General Real Estate Appraiser Classification Appraiser Qualification Criteria 166
Certified Pulmonary Function Technologist (CPFT) 88
Certified Residential Real Estate Appraiser Classification Appraiser Qualification Criteria 165
Certified Respiratory Therapist Technician (CRT) 88
Certifying Expenditures Prior to Rebate Payment 299
Chain Pharmacy Warehouse 189
Change in Ownership or Location, Funeral Establishment 129
Change in Status, Budget Certification Relating to New Construction 302
Change in Use/Deferred Taxes, Forest Land 350
Change of Name on Record, Criteria 419
Changes in Information Must be Submitted to Board, Minimum Required Information for Licensure 193
Character 73, 85, 178
Church Organization, Food, Meals, or Drinks 283
City, County, & School District Abstracts Of Value & Identification Of Urban Renewal Increment & Partial Exemption Values 327
Civil Fine 183
Claim 378
Claim Form - Minimum Requirements, Sufficiency of Claims 386
Claim Form, Refund Claims 298
Claims Including Storage, Variable Fees 382
Classroom Hour 160
Clinical Social Work 138
Closed Issues, Credit or Refund 272
Clubs & Organizations, Food, Meals, or Drinks 282
Co-Licensed Partner or Product 189
Collection Of Tax 276
Colleges, Universities, & Schools, Food, Meals, or Drinks 282
Colors, Certification Marks 220
Combined Reports -- Final Federal Determination & Change of Filing Method 273
Commercial Establishments, Food, Meals, or Drinks 282
Commercial Lots or Acreages, Listing & Reporting 331
Commercial Navigational Encroachment 41, 63
Commercial or Industrial Condominiums, Listing & Reporting 332
Commercial or Industrial Improvements on Leased Land, Listing & Reporting 333
Common Area Land & Improvements, Listing & Reporting 332
Common Area Vacant Land, Listing & Reporting 331
Common Law Marriage, Criteria 418
Community Dock 63
Community Docks 41
Community Docks, Dock Standards/ Float Home Requirements 45
Comparable Valuation Methodology to Partially Exempt Property Under Section 63-602C, Idaho Code 334
Completion of Gaseous Fuels Receipt Book(s), Permits (Decal) Sold 353
Compliance Required 103
Compliance With Permit 58
Compliance for Idaho Grown Potatoes, Additional Labeling Requirements, Fresh Potatoes 223
Compliance for Private Brands or Labels That Do Not Reference Idaho Locations, Additional Labeling Requirements, Fresh Potatoes 223
Compliance for Private Brands or Labels That Reference Idaho Locations, Additional Labeling Requirements, Fresh Potatoes 223
Components 189
Comprehensive Registry Exam 88
Compulsory Printing, Certification Marks 220
Computation Of Property Taxes 349
Computation of Idaho Taxable Income, Alien 247
Computation of Tax, Retailer 276
Computing the Credit Earned, Credit for Qualifying New Employees -- Calculations Used to Determine the Credit & Credit Carryover 266
Conditional Permit 88
Conditions on Access & Use 201
Conduct 81, 183
Confidential Information 299
Connection Device, Manufactured Homes & Office Trailers Being Towed 431
Construction, Manufactured Homes & Office Trailers Being Towed 431
Consulting & Training, Licensure Exemption 97
Consumable Supplies Not Exempt, Snow Equipment 299
Contact Hours, Continuing Education 151
Containers, Certification Marks 218
Contents of Notice, Hearings 211
Contested Case Hearings 403
Continuing Education 97, 108, 123,

136, 151, 167, 181
Continuing Education Requirement 123
Continuing Medical Education (CME) Required 78
Continuing Naturopathic Education (CNE) Required 181
Continuing Training for Designated Representative 195
Contractor Improving Real Property 279
Contractor Improving Real Property, Well Drillers/Pump Installers 281
Convention Promotion 204
Convoy Of Overlegal Loads 427
Convoying Manufactured Homes, Office Trailers 427
Convoying Oversize Loads 427
Coordination With Investment Tax Credit & Property Tax Exemption in Lieu of the Investment Tax Credit. 268
Copy of Federal Return Required, Valid Income Tax Returns 271
Corrected Invoices, Consumers Claiming Refunds of Motor Fuel Tax 359
Correction Of Erroneous Levy 349
Cosmetology - Electrology, Esthetics, & Nail Technology Apprentice Training 117
Cosmetology Apprentices 117
Costs & Fees 183
County Clerks to Submit Lists, Penalty for Failure to Provide Notice of Budget Hearing 349
County Designations, License Plate Provisions for Standard Plates 408
County Valuation Program To Be Carried On By Assessor 320
Course Approval, Continuing Education 124
Credit Allowed 267
Credit Calculated on a State-by-State Basis, Credit for Taxes Paid Another State or Territory 263
Credit For Income Taxes Paid Another State Or Territory 263
Credit For Qualifying New Employees - Calculations Used To Determine The Credit & Credit Carryover, 2001 265

Credit For Service As Lecturer, Discussion Leader, Or Speaker 30
Credit Memo 370
Credit Received Toward Renewal of License 133
Credit for Appraisal Educational Processes & Programs, Continuing Education 167
Credit for Taxes Paid, Exemptions 374
Credits & Refunds 272
Credits, Personalized License Plates 413
Crimes 182
Criteria 418
Cross Reference 322
Cross Reference for School Districts with Tuition Funds 307
Cross Reference, Listing & Reporting 331
Currency Operated Amusement Devices 297
Current License 110
Customer 232, 235

D

DEQ 120
Damage or Spoilage, Breackage or Spoilage 368
Date Plan is Submitted, County Valuation Program 321
Dates & Places, Examinations 112
Dates of Exams 140
Decision Following a Hearing 53
Deductions, Motor Fuel Tax 356
Deferred Tax Responsibility, Selling Landowner 350
Definition of Financial Institution 261
Definitions 175, 201, 404
Definitions - As Used In These Rules, IDAPA 29.01.02 216
Definitions, 35.01.10, Idaho Cigarette & Tobacco Products Tax Administrative Rules 373
Definitions, County Valuation Program to be Carried on by Assessor 320
Definitions, Drugs/Manufacturer/Distributors 189
Definitions, IDAPA 17.02.08, Miscellaneous Provisions 18
Definitions, IDAPA 20.03.04, The Regulation Of Beds, Waters, & Airspace Over Navigable Lakes In The State Of Idaho 41

Definitions, IDAPA 20.03.17, Rules Governing Leases On State-Owned Submerged Lands & Formerly Submerged Lands 62
Definitions, IDAPA 22.01.01, Rules Of The Board Of Medicine For Licensure To Practice Medicine & Surgery & Osteopathic Surgery In Idaho 72
Definitions, IDAPA 22.01.02, Rules Of The Board Of Medicine For The Registration Of Externs, Interns, & Residents 83
Definitions, IDAPA 22.01.11, Rules For Licensure Of Respiratory Therapists In Idaho 88
Definitions, IDAPA 24.04.01, Rules Of The Idaho Board Of Cosmetology 110
Definitions, IDAPA 24.05.01, Board Of Drinking Water & Wastewater Professionals 119
Definitions, IDAPA 24.17.01, Rules Of The State Board Of Acupuncture 156
Definitions, IDAPA 24.18.01, Rules Of The Real Estate Appraiser Board 160
Definitions, IDAPA 26.01.20, Rules Governing The Administration Of Park & Recreation Areas & Facilities 185
Definitions, IDAPA 35.01.02, Idaho Sales & Use Tax Administrative Rules 279
Definitions, IDAPA 35.01.11, Idaho Unclaimed Property Administrative Rules 370
Definitions, IDAPA 37.03.01, Adjudication Rules 378
Definitions, IDAPA 39.03.10, Rules Governing When An Overlegal Permit Is Required 422
Definitions, IDAPA 39.03.12, Rules Governing Safety Requirements Of Overlegal Permits 426
Definitions, IDAPA 39.03.16, Rules Governing Oversize Permits For Non-Reducible Vehicles & Loads 429, 431
Definitions, IDAPA 54.02.01, Rules Governing The College Savings

Program 435
Definitions, Regional/Local/Special Interest Promotion 204
Definitions, Section 802, Relating to New Construction 301
Definitions, Section 803, Dollar Certification Form (L-2 Form) 302
Definitions, Section 804, Urban Renewal Districts 346
Definitions, Sections 301 Through 313 232
Definitions, Sections 601 Through 605 235
Denial Or Refusal To Renew License Or Permit Or Suspension Or Revocation Of License Or Permit 97
Denial of Access to Meter, Denial or Termination of Service With Prior Notice 233
Denial of License to Applicant, Minimum Qualifications 195
Denial of Service 233
Denial of a Refund Claim 299
Denture Clinic Requirements 154
Deposit 235
Designation for Farm Vehicles, License Plate Provisions for Standard Plates 408
Designation for Recreational Vehicles, License Plate Provisions for Standard Plates 408
Designations for Motor Homes, License Plate Provisions for Standard Plates 409
Determination of Average Tax Rate -- Private Railcar Fleets Under Five Hundred Thousand Dollars Assessed Value 327
Determination of Qualified and Non-Qualified Withdrawals 438
Determinations Officer 404
Determining Eligibility, Amendment Fees 385
Developer Responsibilities 299
Didactic Course Work 157
Dimensions, Pilot/Escort Vehicle Sign Requirements 427
Dimensions, Signing Requirements of Oversize Vehicles & Loads 426
Director 404
Director's Authorization to Issue & Renew Leases 65

Disability Due to Alcohol or Drug Use or Emotional or Mental Impairment, Limited License 102
Disabled Veteran License Plates, License Plate Provisions for Special Plates 412
Discipline 80, 97
Discipline, Volunteer License 79
Disclosure 86
Disclosure of Geographic Growing Area of Origin Upon Potato Containers, Additional Labeling Requirements, Fresh Potatoes 223
Discontinuance of Establishment Training Apprentice 118
Discontinuance of a Course, Apprentice Training 118
Discovery 404
Displaying Signs, Signing Requirements of Oversize Vehicles & Loads 426
Disposition Without Hearing 53
Distance Learning & Independent Study, Continuing Education 124
Distance learning & Home Study 182
Distribution of Oldest Approved Stock First, Wholesale Drug Distributors 197
Distributor 191, 373
Distributor's Fuel Tax Reports 354
Distributor's & Retail Dealer's Allowances for Motor Fuels 356
Distributor's Allowance for Motor Fuels 357
Dock Reconfiguration 50
Dock Surface Area 63
Documentation 207
Documentation of Untaxed Gaseous Fuels Delivered Into Motor Vehicles, Propane & Natural Gas 353
Dredge & Placer Mining 59
Drug Facility Requirements, Storage & Handling of Drugs 195
Dry Grazing Land, Listing & Reporting 329
Dual Licensure/Permit Fees for Practitioners of Respiratory & Polysomnography Related Respiratory Care 100
Dual Residency Couples -- General Principles, Residential Improvement 337

Dual Residency Couples, Residential Improvements 337
Duplicate Returns, Credits & Refunds 273
Duties, Powers, & Immunities 202
Duty of the County Auditor 349
Duty of the County Treasurer 350

E

EPA 120
Early Disposition of Investment in New Plant, Recapture, Idaho Small Employer Incentive Act Of 2005 273
Earnings 436
Eaves, Manufactured Homes & Office Trailers Being Towed 431
Economic Emergencies, Waiver of Limitations for Emergency Movements 423
Education 161
Education & Experience Requirements 121
Education Requirement 172
Educational & Training Requirements 132
Educational Commission for Foreign Medical Graduates (ECFMG) 72, 84
Educational Institutions, Sales To & Purchases By Nonprofit Organizations 289
Educational Requirements 132
Election of Methods, Credit Earned on Property Used Both in & Outside Idaho in Taxable Years Beginning On or After January 1, 1995 264
Electrologist Instructor/Student Ratio, Cosmetology Schools Approved to Teach Electrology 115
Electrology Apprentices 117
Eligibility, Volunteer License 79
Eligible Person, POW License Plates 414
Emergencies Endangering the Public Health, Safety or Welfare Including But Not Limited to Fire, Flood, or Earthquake, Waiver of Limitations for Emergency Movements 423
Emergency Movement of Implements of Husbandry, Waiver of Limitations for Emergency Movements 423
Emergency Movements After Dark or Weekends, Waiver of Limitations for

- Emergency Movements 424
Emergency Removal of Disabled
Vehicles, Waiver of Limitations for
Emergency Movements 423
Employment of Adequate
Personnel 195
Employment of a Social Worker 138
Encroachment Applications 49
Encroachment Permit Application
Fees 66
Encroachment Standards 44
Encroachment in Aid of Navigation 63
Encroachments Free to the Public 64
Encroachments Not in Aid of
Navigation 42, 54, 63
Encroachments in Aid of
Navigation 42
Endorsement 120, 140, 149
Endorsement Certification 110
English Language 85
Entities Presumed to be Financial
Institutions 261
Entry Level Examination 88
Environmental Medicine 176
Environmental Protection &
Navigational or Economic
Necessity 44
Equalization Ratio Study, Equalization
of Assessments 311
Equipment Brought Into Idaho,
Tangible Personal Property 288
Equities In Vacant Land Purchased
From the State, Listing &
Reporting 331
Equities in Land With Improvements
Purchased From the State, Listing &
Reporting 333
Equivalency Policy 123
Equivalent Test, In lieu of High School
Education 111
Errors Discovered After the Fourth
Monday in October 349
Errors Discovered by the Fourth
Monday in October 349
Errors in Preparation--Malfunctions--
Failure to Bill 231
Establishing & Adjusting Base &
Increment Values, Urban Renewal
Districts 346
Establishing Equivalency In Lieu Of
The Required High School
Education 111
Esthetics Apprentices 117
Exam Utilized 140
Examination 111, 148, 171, 172
Examination Fees 22, 127
Examination Requirement 121
Examination of Materials, Storage &
Handling of Drugs 196
Examinations - General 112
Examinations & Board Meetings 140
Example -- Both Residences Are
Separate Property 338
Example -- Both Residences are
Community Property 337
Example -- One Residence is
Community Property, The Other is
Separate Property 337
Excavated or Dredged Channel 47
Exception from Requirement for at
Least One Observation for Use of
Secondary Category in Adjusted
Value Determination 312, 324
Exceptions To Apportionment
Formula 260
Exceptions, Inappropriate Tariff
Schedule 230
Exceptions, Penalty for Failure to
Provide Notice of Budget
Hearing 349
Exceptions/Extension 28
Exempt Improvements, Listing &
Reporting 334
Exempt Land, Listing &
Reporting 331
Exemption 192
Exemption Certificate, Nonprofit
Organizations 291
Exemption From Attorney General's
Administrative Procedure Rules for
Contested Cases 403
Exemption From Exam 140
Exemption for Snow Equipment 299
Exemption to Application of the
Transfer Fee, Application &
Reporting of the Petroleum Transfer
Fee 363
Exemption, Certification Marks 220
Exemptions 374
Exemptions, Provisional Permit 173
Experience 162, 171
Expiration Date 125, 180
Expiration, Volunteer License 79
Expired Plates, Personalized License
Plates 414
Exported Fuel, Motor Fuel Tax 357
Extension of Registration 86
Extensions Of Payment 67
Extern 84
- F**
FIRREA, Financial Institutions Reform,
Recovery & Enforcement Act 160
Facility Administrator, Administrators-
In-Training 134
Facility Changes in Ownership or
Location, Facility Licensure 169
Facility Licensure 169
Facility Licensure & Operation
Requirements 169
Factors, Water's Edge -- Elements of a
Combined Report 263
Failure To Comply 199
Failure To Maintain Insurance 243
Failure to Abide By Terms of Payment
Arrangement, Denial or Termination
of Service With Prior Notice 232
Failure to Collect & Remit Tax &
Permit Fees, Motor Fuels Tax 353
Failure to Fulfill the Continuing
Education Requirements 125
Failure to Maintain Adequate
Records 270
Failure to Maintain Increased
Employment, Recapture, Idaho Small
Employer Incentive Act Of
2005 274
Failure to Make Security Deposit,
Denial or Termination of Service
With Prior Notice 232
Failure to Meet Standard of Care 182
Failure to Meet Tax Incentive Criteria,
Recapture, Idaho Small Employer
Incentive Act Of 2005 273
Failure to Pass Examination 113
Failure to Pay, Denial or Termination of
Service With Prior Notice 232
Failure to Provide the Annual Report
Information 67
Federation of State Medical Boards of
the United States (FSMB) 73
Fees 79, 86, 127, 148, 182
Fees Are Non-Refundable 149
Fees, Respiratory Therapist License 99
Fees, Vehicle Dealer Loaner
Plates 410
Field Real Estate Appraisal

Experience 160
Filing Application, Apprentice Training 117
Filing Date for Operator's Statement 325
Filing Status, Alien 247
Filing of Appeal 404
Final Acceptance/Rejection of Program 29
Final Order 405
Final Property Tax Reduction Roll 344
Findings of Fact & Conclusions of Law 405
Fingerprint Processing 22
Fire-Fighting, Water Claim is Not Required 380
First-Aid Kit 110
Flat Fee 378
Flat Fees 380
Fleet 279
Float Home Construction, Alteration or Relocation, Float Home Requirements 47
Follow-Up Ratio Study, Equalization of Assessments 311
Following Disciplinary Action, Limited Licenses 102
Food Banks & Soup Kitchens, Sales To & Purchases By Nonprofit Organizations 290
Food, Meals, Or Drinks 282
Form of Request for Quotation, Small Purchases 397
Form of Transcripts--Cover Sheet 211
Former Patient 176
Formerly Submerged Lands 63
Forms, Motor Vehicles - Sales, Rentals, & Leases 291
Fraternalities, Sororities, & Cooperative Living Group, Food, Meals, or Drinks 283
Fuel Records Required for Refund Claims, Nontaxable Uses of Motor Fuels 360
Fuel, Drilling Rigs or Other Off-Road Equipment 282
Fulfillment 204
Full Name Requirements 417
Funeral Establishment 130
Funeral Establishment & Crematory Establishment 129
Funeral Firm, Funeral

Establishment 130
Further Information, Sufficiency of Claims 392

G

GED Test 111
Gaseous Fuels, Propane & Natural Gas 353
Gender 110
General 379, 422
General Encroachment Standards 48
General Oversize Limitations 429
General Provisions 417
General Provisions For Licensure & Permits 92
General Provisions For Registration 85
General Qualifications For Licensure 73
Gifts of Motor Vehicles 293
Good Moral Character, Endorsement 149
Government Voucher 380
Grading 129
Graduate Degree 147
Graduate Program Requirement 145
Graduates Of Unapproved Medical Schools Located Outside The United States Or Canada 77
Graduation Date to Qualify for Exam 140
Grounds For Denial Or Termination Of Service With Prior Notice 232
Growers', Dealers', Handlers' & Out-of-State Repackers' Records 216
Guidelines 314

H

Hand Tool 279
Has Not Been Disciplined, Endorsement 149
Hazardous Material Defined, Transportation of Hazardous Material by Rail 239
Health Care Standards, General Qualifications for Licensure 75
Health Insurance Costs, Subtractions Available Only to Individuals 256
Health Related Entities, Sales To & Purchases By Nonprofit Organizations 290
Hearing Aid Dealer & Fitter Licensure 172
Hearings, Applications 53

Holds a Current License, Endorsement 149
Homesite Assessment, Land Actively Devoted to Agriculture 339
Homesite Land, Listing & Reporting 329
Honor System Snack Sales, Food, Meals, or Drinks 283
Horsepower Requirement, Vehicles for Towing Manufactured Homes & Office Trailers 432
Hospital Grade 110
Hospitals, Sales To & Purchases By Nonprofit Organizations 290
Hours Required, Continuing Education 167
Household & Dependent Care Services, Subtractions Available Only to Individuals 255
Household Deduction for Elderly or Developmentally Disabled Dependents, Subtractions Available Only to Individuals 255
How To Verify That Claimants Are Lawfully Present In The United States 342

I

IFTA Licensees Qualifying for PTO & Auxiliary Engine Allowances 362
Idaho College Savings Program, Subtractions Available Only to Individuals 256
Idaho Foodbank Warehouse, Inc., Sales To & Purchases By Nonprofit Organizations 290
Idaho Investment Tax Credit -- Credit Earned On Property Used Both In & Outside Idaho In Taxable Years Beginning On Or After January 1, 1995 264
Idaho Jurisprudence Examination 176, 180
Idaho Medical Savings Account, Subtractions Available Only to Individuals 255
Idaho Potato Commission Tax 216
Idaho Residency Status, Aliens 247
Idaho Residency Status, Armed Forces 247
Idaho Small Employer Incentive Act Of 2005 273
Idahos, Certification Marks 220

Identification Card Names,
Criteria 418
Identification Card, Vehicle Dealer
Loaner Plates 410
Identify the Unit, Assessment of
Operating Property 326
Identity Misrepresentation, Denial or
Termination of Service With Prior
Notice 232
Identity of Commodity, Certification
Marks 219
If Applicant is From Another State 112
Impose Sanctions 97
Improvements on Exempt or Public
Land, Listing & Reporting 333
Improvements on Railroad Rights-of-
Way, Listing & Reporting 333
Improvements or Fixtures 313
Improvements to Manufactured
Housing, Listing & Reporting 333
Improvements, Listing & Reporting,
Other Than Residential 332
Improvements, Listing & Reporting,
Used in Conjunction With
Recreation 332
In General, Income From Intangible
Property of Investment
Partnerships 258
Inaccurately Billed Service Under
Correct Tariff Schedule -- Failure To
Bill For Service 231
Inactive License 77
Inactive Status 108
Inactive Status (Rule 360) 150
Inactive to Active License 77
Income Not Taxable by Idaho,
Subtractions Available Only to
Individuals 254
Income Tax Payable to Another State,
Credit for Taxes Paid Another State
or Territory 263
Income, Water's Edge -- Elements of a
Combined Report 262
Incorporation by Reference 403, 417
Incorporation of Other Relevant Rules,
Application & Reporting of the
Petroleum Transfer Fee 364
Increment & Exemption Values to be
Indicated 327
Indian Reservations, Exemptions 374
Indian-Owned Retail Outlet, Refund
Claims--Documentation 359

Industrial Lots or Acreages, Listing &
Reporting 331
Ineligible Projects 207
Information From Controlled
Substances Prescription
Database 201
Information Provided To
Shareholders 260
Information Under Oath 192
Initial Licensure Fee 99
Inspection Rules 169
Installation 56
Installation Only After Permit
Issued 57
Installment Payments of Deposit 230
Insufficient Grounds For Termination
Or Denial Of Service 233
Insulation of an Idaho Residence,
Subtractions Available Only to
Individuals 255
Intent 313
Interest Rate for Extension in Time for
Payment of Rent 67
Interest Rates 376
Intern or Resident 84
International Medical Graduate 75
Internship 152
Internship Equivalency 153
Internship Not to Exceed One
Year 153
Intravenous Therapy Certification 177
Investment Income From Investment
Partnerships 258
Investment Lands 350
Invoice Retention, Consumers Claiming
Refunds of Motor Fuel Tax 359
Irrigated Agricultural Land, Listing &
Reporting 328
Irrigated Grazing Land, Listing &
Reporting 328
Issuance of Inactive License 77
Issue of Personalized Plates 412

J

Judicial Review 53
Judicial Review, Processing of
Applications for All Other Types of
Encroachments 55
Jurisdiction Other Than the State of
Idaho 181

K

Kit, Cosmetology Schools Approved to

Teach Electrology 115

L

L-2 Form Contents, Budget
Certification 304
Labeling Containers of Fresh Idaho
Potatoes to Indicate the Variety
Packed Therein, Reporting, Labeling
& Revocation 222
Lack of Current Plates, Personalized
License Plates 413
Land Actively Devoted To Agriculture
Defined 338
Landscape Architect-In-Training 127
Landscape Architect-in-Training
Application Fee 127
Land-use Restrictions 185
Late Fee Payable, Late Fees 385
Late Fees 385
Late Payment 67
Lawful Presence in the United
States 342
Lease Application, Fee, &
Procedure 66
Lease Modification Or Amendment 68
Leases & Easements 56
Legal Authority 403
Legal Name, Criteria 418
Length, Manufactured Homes & Office
Trailers Being Towed 431
Letter of Authorization, Vehicle Dealer
Loaner Plates 410
Levy Computation for Taxing Districts
Encompassing RAAs Within Urban
Renewal Districts 348
Liaison Committee on Medical
Education (LCME) 73, 84
License & Application Fees 36
License Expiration & Renewal 97
License Plate Provisions For Special
Plates 411
License Plate Provisions For Special
Program & Personalized Plates For
Trailers 411
License Plate Provisions For Standard
Plates 408
License Renewal 22
License Required for Each Facility,
Minimum Required Information for
Licensure 193
License Required, Wholesale Drug
Distributors 192
License by Reciprocity 194

- License to Practice Medicine 73
License to Practice Naturopathic
Medicine 176
License, Volunteer License 78
Licensed Distributors & Limited
Licenses, Application & Reporting of
the Petroleum Transfer Fee 363
Licensed Gaseous Fuels Distributor's
Reports 352
Licensed Motor Vehicles, Licensed in a
Nonresidents Home State 289
Licensed Physician 89
Licenses 78, 180
Licensure & Permit Fees for Respiratory
Care Practitioners 99
Licensure Board 89
Licensure By Endorsement 181
Licensure By Examination 135
Licensure By Written Examination For
Graduates Of Medical Schools
Located Outside Of The United States
& Canada 75
Licensure Exemption For Respiratory
Care Practitioners 96
Licensure Expiration 78
Licensure Fee 182
Licensure/Licensed 157
Limitation of Use, Certification
Marks 218
Limitations 268
Limitations on Refunds of Withholding
& Estimated Payments 272
Limitations, Credit for Qualifying New
Employees -- Calculations Used to
Determine the Credit & Credit
Carryover 266
Limited Licenses 102
Line of Navigability 42
List of Programs Certified
Acceptable 29
Literature, Sales To & Purchases By
Nonprofit Organizations 291
Location of Words, Certification
Marks 219
Locations of Hearing 211
Logging 279
Low Water Mark 42
Lump Sum Distributions, Additions
Required Only of Individuals 253
- M**
- Machine Tabulated Data, Distributor's
Fuel Tax Reports 356
Maintenance of Pedigree 199
Mandatory Denial of Licensure for
Wholesale Distribution of
Drugs 194
Manufactured Home/Mobile
Home 280
Manufactured Homes & Office Trailers
Being Towed 431
Manufactured Housing, Installation of
New & Used 301
Manufactured Housing, Listing &
Reporting 333
Manufacturer 190, 373
Manufacturer's Discount Coupon 280
Manufacturer's Rebates 280
Manufacturer's Exclusive
Distributor 190
Marginal Notes, Testimony of All
Witnesses 212
Market Value 63
Market Value Definition 319
Marketing Research 204
Marks 224
Marks, Certification Marks 218
Marriage & Family Therapists 147
Married Applicants' Names,
Criteria 418
Master's Social Work 138
Mathematical Errors, Refund
Claims 298
Matters Included in Transcript 212
Maximum Dimensions Allowed,
General Oversize Limitations 429
Meadow Land, Listing &
Reporting 328
Mechanotherapy 176
Medical Practice Act 89
Members Of The Uniformed
Services 247
Memorandum of Agreement 206
Meridian Therapy 176
Message Preferences, Personalized
License Plates 414
Method to Determine Completion
Required 29
Military Compensation for Service
Performed Outside Idaho,
Subtractions Available Only to
Individuals 254
Military Emergency Affecting National
Security, Waiver of Limitations for
Emergency Movements 422
Military Personnel, Taxes on Motor
Vehicles, Household Goods, &
Personal Effects 294
Military Separation Pay, Armed
Forces 248
Mineral Leases 59
Minimum Deposit Period 438
Minimum Filing Period for Refund
Claims, Consumers Claiming
Refunds of Motor Fuel Tax 367
Minimum Passing Score 180
Minimum Qualifications 194
Minimum Required Information For
Licensure 192
Minimum Requirements, Storage &
Handling Of Drugs 195
Minimum Square Footage,
Cosmetology Schools Approved to
Teach Electrology 115
Mining 280
Minor Office Procedures
Certification 178
Miscellaneous 58
Mitigation, Restoration 60
Modification of an Urban Renewal
Plan 348
Modular Building 280
Monthly Reports, Distributor's Fuel
Tax 354
Monthly Reports, Licensed Gaseous
Fuels Distributor 352
Mooring Buoys 47
Moral Character 92
Motions for Reconsideration 405
Motor Fuels & Petroleum Products
Presumed to be Distributed 356
Motor Fuels Exemption From Sales
Tax 366
Motor Fuels-Receipts, Distributor's
Fuel Tax Reports 356
Motor Vehicles - Sales, Rentals, &
Leases 291
Motor Vehicles & Trailers Used in
Interstate Commerce, Gross Weight
of Over Twenty-Six Thousand
Pounds 296
Motor Vehicles, Well Drillers/Pump
Installers 281
Multi-Regional Promotion 206
Multiple Ownerships Including
Community Interests as Partial
Owners, Property Interest in a

Residential Improvement 338
Multiple Purpose Claims, Variable Fees 382
Multiple Unit Overwidth Loads, General Oversize Limitations 429

N

Nail Technology Apprentices 117
National Board of Respiratory Care, Inc. 89
Nationally Recognized Appraisal Organization 160
Natural or Ordinary High Water Mark 42, 63
Naturopathic Medical Formulary Council 176
Naturopathic Medical Program 179
Naturopathic Medicine 176
Naturopathic Obstetrics Certification 177
Navigable Lake 42
Negligent Operation 187
New Construction Roll Listing 301
New Residents, Taxes on Motor Vehicles, Household Goods, & Personal Effects 294
No Action on Application 85, 93
No Certification Mark 218
No Encroachments Without Permit 44
Non-Coin Operated Amusement Machines or Games 298
Non-Indian Enterprises, Exemptions 374
Non-Indian Retailers, Exemptions 374
Non-Indian Retailers, Shipments Delivered on Indian Reservations 374
Non-Irrigated Agricultural Land, Listing & Reporting 328
Non-Practicing Status, Limited License 102
Non-Profit Submittal 206
Non-Refundable 182
Non-Utility Service 232
Noncompliance Resolution 59
Nonmilitary Income, Armed Forces 249
Nonmilitary Spouse, Armed Forces 249
Nonnavigational, Community & Commercial Navigational Encroachments 54
Nonproductive Mining

Corporations 259
Nonrefundable Credits, Priority Order of Credits & Adjustments to Credits 270
Nonresident & Part-Year Resident Individuals -- Proration Of Exemptions & Deductions 257
Nonresidents, Motor Vehicles Registered or Licensed in Another State 294
Nonsale Clothiers, Sales To & Purchases By Nonprofit Organizations 290
Nonstandard Rental Rates 67
Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees, Power-Take-Off & Auxiliary Engine Allowances 362
Nontaxable Miles Defined, Nontaxable Uses of Motor Fuels 360
Nontaxable Purchases by Establishments, Food, Meals, or Drinks 283
Normal Distribution Channel 190
Not Incorporated, Certification Marks 218
Notice Of Hearing 211
Notice of Contested Case Hearing 404
Notice of Denial, Licensed Fuel Distributors Claim for Tax Refund 359
Notice of Follow-Up Ratio Study 311
Notice of Noncompliance, Failure to Maintain Insurance 243
Notice of Noncompliance/Proposed Permit Revocation 59
Notice of Procedure for Reconnecting Service, Opportunity to Avoid Termination of Service 234
Notification of Change 86
Notification of New Construction Roll & Annexation Values 302
Numbering Assignment List, Legislative License Plates 412
Numbering of Plates, Vehicle Dealer Transporter Registration & Plate 410
Numbering, Vehicle Dealer Loaner Plates 409
Nursing Home Administrator-In-Training Requirements 133
Nursing Home Administrators-In-

Training 133

O

Office -- Office Hours -- Mailing & Street Address 403
Office - Office Hours - Mailing & Street Address - Phone Numbers 417
Office Hours 417
Office Standards 155
Office Trailer 280
Official Transcripts 179
Operating Personnel 120
Operating Property 314
Operating Statement--Contents 324
Operational Guidelines for Non-traditional Recreational Activities 185
Operator Requirements, Vehicles for Towing Manufactured Homes & Office Trailers 432
Operator-in-Training Permit 125
Operator's Statement & Operating Statement 324
Opportunity to Prevent Denial or Termination of Service 234
Option to Apply, Legislative License Plates 412
Original Application (Rule 410) 136
Original Certificate or Document 73, 84, 176
Original License & Annual License Fee 127
Original License Application 22
Original License Fee 149
Orthopedic Appliances 280
Other Eligibility Factors 194
Other Eligibility for Licensure for Wholesale Distribution of Drugs Factors 194
Other Land, Listing & Reporting 330
Other Laws & Rules 59
Other Profile Requests 202
Other Type Containers, Certification Marks 218
Out Of State Supervised Experience 139
Out of State Applicants, Applications 111
Out-of-State Apprenticeship 118
Outstanding Liabilities, Refund Claims 298
Overlegal Permits For Self Propelled Vehicles 424

- Overpayment, Credits & Refunds 272
Oversize Load Signs, Pilot/Escort
Vehicle Sign Requirements 427
Overwidth Overhang, General Oversize
Limitations 429
Owner 371
Ownership Interest/Deferred Taxes,
Forest Land 350
- P**
- Packaging, Branding, Grade &
Packaging Requirements of State
Brand 221
Partial New Construction Values 302
Party 42
Pass-Through Entities 268
Pass-Through Entities, Credit for
Qualifying New Employees --
Calculations Used to Determine the
Credit & Credit Carryover 267
Passing Grade 136
Patented Mineral Land, Listing &
Reporting 329
Patron 110
Payment Of Advertising Tax & Usage
Of Federally Registered Trademarks,
General 216
Payment Under Protest, Refund
Claims 298
Payment of Sales Tax by a Purchaser to
a Vendor, Refund Claims 298
Payment of Sales or Use Tax Directly to
the State, Refund Claims 298
Payment, Application & Reporting of
the Petroleum Transfer Fee 364
Pedigree 190, 198
Pedigree Contents 198
Pedigree Format 199
Penalties for Noncompliance 182
Penalties for Noncompliance, Penalty
for Failure to Provide Notice of
Budget Hearing 349
Penalties, Fictitious Display of Sample
Plates 415
Penalties, Vehicle Dealer License Plates
Restrictions 409
Penalties, Vehicle Dealer Transporter
Registration & Plate 411
Penalty For Failure To Provide Notice
Of Budget Hearing 349
Per Acre Fee 379
Per Acre Fee, Variable Fees 381
Per CFS Fee 379
Per CFS Fee, Variable Fees 382
Per Kilowatt Fee 379
Per Kilowatt Fee, Variable Fees 381
Performance Bond 69
Performance of Respiratory Care 89
Permit Fees for Polysomnography
Related Respiratory Care
Practitioners 99
Permit Required, Section 105.1.1,
International Fire Code 24
Personal Check 379
Personal Interview 179
Personal Property 313
Personalized Sample Plates 414
Personnel 195
Personnel to Authorize Reconnection,
Opportunity to Avoid Termination of
Service 234
Petroleum & Petroleum Products,
Application & Reporting of the
Petroleum Transfer Fee 363
Petroleum Transfer Fee
Suspended 367
Pilot/Escort Vehicle Sign
Requirements 427
Placement of Temporary Registration
Document 408
Plan Selection 208
Plan for Continuing Program of
Valuation 321
Plans 43
Plate Availability, Legislative License
Plates 412
Policy 44, 64
Policy of the State of Idaho 64
Post Graduate Education Requirement
for License Renewal, Continuing
Education 136
Power Take-Off & Auxiliary Engine
Allowances (Allowances), Motor
Fuel Tax 361
Powers & Duties 91
Practical Minimum Dimension, General
Oversize Limitations 429
Practice Of Social Work 137
Practice of Respiratory Care 90
Practicum 147
Practitioner 157
Preceptor Certification, Administrators-
In-Training 134
Preliminary Property Tax Reduction
Roll 344
Prescription Drug 190
Prescription or Work Order 280
Previous Account Balance Owing,
Denial or Termination of Service
With Prior Notice 233
Prior to Beginning Training, Apprentice
Training 117
Priority Order Of Credits &
Adjustments To Credits 270
Private Practice of Social Work 138
Private Railcar Fleet
Apportionment 327
Procedure After Claim Approval 344
Procedure Followed In The Solicitation
Of Bids & Proposals 397
Procedure for Crisis Situations, Written
Policies & Procedures 198
Procedure for Recalls & Withdrawals,
Written Policies & Procedures 197
Procedures for Boise School District
Ratio Studies 322
Processing Fee 127
Processing Of Applications For All
Other Types Of Encroachments 54
Processing Of Applications For Single-
Family & Two-Family Navigational
Encroachments Within Line Of
Navigability 52
Producer & Miscellaneous Licensing
Fees 22
Productivity Forestland, Listing &
Reporting 329
Professional Counselor, Marriage &
Family Therapist & Pastoral
Counselor Examination or
Reexamination Fee 149
Professional, Consultant & Information
Technology Services, Small
Purchases 397
Program 436
Program Documents 436
Prohibited Practices 32
Proof Of Completion 29
Proof of Completion, Basic
Requirements 28
Proper Storage of Drugs, Storage &
Handling of Drugs 196
Property Exempt From Taxation --
Homestead 334
Property Exempt From Taxation --
Residential Improvements -- Special
Situations 336

- Proration, Proration of Exemptions & Deductions 257
- Protection Of Historical, Cultural & Natural Resources 185
- Protection Under Public Law 86-272 260
- Provides Information, Endorsement 150
- Provisional Permit 172
- Provisions For Former Prisoner Of War (POW) License Plates 414
- Provisions For Legislative License Plates 412
- Provisions For Personalized License Plates 412
- Provisions For Sample Plates, License Plate Provisions 414
- Public Drinking Water System or Public Water System 120
- Public Hearing 43
- Public Records Act Compliance 403, 417
- Public Trust Doctrine 43
- Public Wastewater System or Wastewater System 120
- Pulmonary Function Technologists, Licensure Exemption 97
- Purchases in Amounts Less Than Five Thousand Dollars, Small Purchases 398
- Purpose 181
- Purpose of Continuing Education 167
- Purpose, Vehicle Dealer Transporter Registration & Plate 410
- Q**
- Qualifications 107
- Qualifications For Licensure 157
- Qualifications For Professional Counselor Licensure 145
- Qualifications for Licensure. 178
- Qualified Investment 267
- Qualified Investment Partnerships 258
- Qualified Subchapter S Subsidiary 259, 260
- Qualifying Shopping Center Location 299
- R**
- Reactivation, Failure to Maintain Insurance 243
- Real Estate 160
- Real Property 160, 280, 313
- Reapplication 97
- Rear Axle, Vehicles for Towing Manufactured Homes & Office Trailers 432
- Reasonable Statistical Certainty 312
- Reasons for Exemption From Attorney General's Administrative Procedure Rules 403
- Rebate of Sales Tax 299
- Rebates Paid To Certain Real Estate Developers 299
- Rebilling Required, Inappropriate Tariff Schedule 230
- Rebilling Time Period 231
- Rebilling, Inappropriate Tariff Schedule 230
- Recalculated Fee, Amendment Fees 385
- Recalled Plates, Personalized License Plates 414
- Recapture Of Deferred Taxes On Lands Designated Under Section 63-1706, Idaho Code 350
- Recapture, Biofuel 269
- Recapture, Idaho Small Employer Incentive Act Of 2005 273
- Receipt of Gaseous Fuels, Motor Fuels Tax 353
- Receipt of Petroleum Products, Application & Reporting of the Petroleum Transfer Fee 363
- Recognition of Federal Exemptions, Transportation of Hazardous Material by Rail 239
- Recognition, Certification Marks 218
- Reconciliation, Assessment of Operating Property 326
- Record Keeping by Wholesale Drug Distributors 197
- Record Of Complaints 234
- Record of Instruction 110
- Record of Instruction, Apprentice Training 118
- Record of Property Ownership 325
- Record of Training, Cosmetology Schools Approved to Teach Electrology 115
- Record of Training, Cosmetology Schools Teaching Nail Technology 117
- Record-Keeping Requirements, Biofuel 269
- Recordation, Issued Permit 56
- Recording & Transcription 404
- Recordkeeping, Record of Complaints 235
- Records Required for Motor Fuels Tax Refunds, Consumers Claiming Refunds of Motor Fuel Tax 360
- Records Required, Cosmetology Schools Approved to Teach Electrology 115
- Records Required, Cosmetology Schools Teaching Esthetics 116
- Records Required, Cosmetology Schools Teaching Nail Technology 116
- Records of Unstamped Deliveries, Shipments in Interstate Commerce 373
- Recreational Land, Listing & Reporting 329
- Recreational Vehicles, Listing & Reporting 334
- Red Cross, Sales To & Purchases By Nonprofit Organizations 290
- Red-Dyed Low-Sulfur & Ultra Low-Sulfur Fuel, Motor Fuel Tax 366
- Red-Dyed Low-Sulfur Fuel, Motor Fuel Tax 366
- Redredging 50
- Reduction or Denial of Refund Claims 272
- Referenced Standards, Chapter 45, International Fire Code 25
- References To Appendix, International Fire Code 26
- Refund Applied to Taxes Due, Consumers Claiming Refunds of Motor Fuel Tax 367
- Refund Claim Documentation, Licensed Fuel Distributors 358
- Refund Claim, Consumers Claiming Refunds of Motor Fuel Tax 367
- Refund Claim, Licensed Fuel Distributors 358
- Refund Claims 298
- Refund Claims--Documentation 359
- Refund Claims--Reporting, Claiming Refunds Of Motor Fuel Tax 367
- Refund Documents, Consumers Claiming Refunds of Motor Fuel Tax 360
- Refund May be Claimed Only by Final

- Consumer, Consumers Claiming Refunds of Motor Fuel Tax 367
- Refund May be Filed Separately, Consumers Claiming Refunds of Motor Fuel Tax 367
- Refunds 231
- Refunds & Additional Payments, Inappropriate Tariff Schedule 231
- Refunds To Licensed Fuel Distributors, Motor Fuels Tax 358
- Refunds to Consumers, Motor Fuel Tax 359
- Registered Interns 148
- Registered Polysomnographic Technologist (RPSGT) 90
- Registered Pulmonary Function Technologist (RPFT) 90
- Registered Respiratory Therapist (RRT) 90
- Registration 139
- Registration & Access Requirements 201
- Registration Certificate, Extern/Interns/Residents 85
- Registration Fee 86
- Reimbursement of Tax From the Purchaser of the Seller 277
- Reinstatement 78, 97, 125, 181
- Reinstatement Fee 99, 127
- Reinstatement License Fee 182
- Rejection of Claim 380
- Related Health Care Field, Administrators-In-Training 133
- Related Party Transfers & Sales, Motor Vehicles Between Businesses 297
- Release of Liability 177
- Relicensing Procedures After Voluntary Termination of License 28
- Relicensure 78, 181
- Religious Corporations Or Societies 334
- Removal of Improvements Upon Cancellation 69
- Removal of Waste 57
- Renewal 78, 180, 181
- Renewal Or Reinstatement Of License 125
- Renewal Requirement 107
- Renewal of License 133
- Renewal of Plates, Vehicle Dealer Transporter Registration & Plate 410
- Renewing Plates, Personalized License Plates 413
- Rental 67
- Reorganizations, Mergers & Liquidations, Recapture, Idaho Small Employer Incentive Act Of 2005 274
- Repairs, Reinstallation of Structures, Existing Encroachments 50
- Reparations to Displaced Japanese Americans, Subtractions Available Only to Individuals 255
- Report Due & Payment Required, Distributor's Fuel Tax Reports 356
- Report Due & Payment Required, Licensed Gaseous Fuels Distributor 353
- Reporting Of Railroad Accidents (Rule 104) 239
- Reporting Requirements 154
- Reporting Requirements, Application & Reporting of the Petroleum Transfer Fee 364
- Reporting of Fresh Shipments of Potatoes, Reporting, Labeling & Revocation 221
- Reporting of Mileage, Operating Property 324
- Reporting, Labeling & Revocation 221
- Reporting, Record of Complaints 235
- Reproductions 224
- Request for Extension, Five Year County Valuation Plan 321
- Request for Wine Destruction, Breakage or Spoilage 369
- Requests or Inquiries Regarding Navigability 65
- Required Equipment, Cosmetology Schools Approved to Teach Electrology 115
- Requirement When a Certificate/ License is Cancelled, Continuing Education 167
- Requirement for Bond or Equivalent Security 193
- Requirement of a Pedigree 199
- Requirement to Obtain Permit, Amusement Devices 297
- Requirement to Obtain a Seller's Permit, Sales Through Vending Machines 284
- Requirement to Pay 379
- Requirements & Conditions for Internship 152
- Requirements For License 120
- Requirements For Licensure By Examination - General 112
- Requirements For Licensure/ Certification 161
- Requirements For Registration Of Externs, Interns & Residents 84
- Requirements for Acupuncture Technician Certificate 158
- Requirements for Certification 158
- Requirements for License Renewal 133
- Requirements for Licensure 157
- Requirements for Registration 139, 148
- Requirements for Storage & Handling of Drugs 195
- Requirements of Course Approval 28
- Requirements of a Valid Income Tax Return 271
- Requirements of a Valid Refund Claim 272, 358
- Reservation Means Lands Which Are, Shipments Delivered on Indian Reservations 373
- Residence 73, 84, 93, 178
- Residential Condominiums, Listing & Reporting 332
- Residential Improvements on Leased Land, Listing & Reporting 333
- Residential Lots or Acreages, Listing & Reporting 331
- Residential Unit 160
- Respiratory Care 90
- Respiratory Care Practitioner 91
- Respiratory Care Protocols 90
- Respiratory Therapist 91
- Respiratory Therapy 91
- Respiratory Therapy Students, Licensure Exemption 97
- Responsible Persons, Wholesale Drug Distributors 198
- Restricted Status, Limited License 102
- Restrictions, Vehicle Dealer License Plates Restrictions 409
- Retired Defined, Volunteer License 79
- Retirement Benefits, Subtractions Available Only to Individuals 255
- Returned, Damaged, & Outdated Drugs, Storage & Handling of Drugs 196

- Revocation of Lake Encroachment Permits 60
- Revocation of Right to Use Marks, Reporting, Labeling & Revocation 223
- Revoke the Approval 180
- Riparian Owner 43
- Riparian or Littoral Rights 43, 64
- Rollover Distribution 437
- Rounding to the Nearest Whole Percent, Credit for Taxes Paid Another State or Territory 264
- Royalty Fees 224
- Rules & Regulations Pertaining To Market Value Duty Of Assessors 319
- Rules Applicable to All Existing & Proposed Uses & Encroachments 65
- Rules For Cosmetology Schools Approved To Teach Electrology 114
- Rules For Cosmetology Schools Teaching Esthetics 116
- Rules For Cosmetology Schools Teaching Nail Technology 116
- Rules for Secured Credit Sales 286
- Rules for Unsecured Credit Sales 286
- Rules of Evidence 404
- Running Gear Assembly - General, Manufactured Homes & Office Trailers Being Towed 431
- Rural Commercial Subdivisions, Listing & Reporting 330
- Rural Industrial Subdivisions, Listing & Reporting 330
- Rural Industrial Tracts, Listing & Reporting 330
- Rural Residential Subdivisions, Listing & Reporting 330
- Rural Residential Tracts, Listing & Reporting 329
- S**
- S Corporations 259
- S Corporations Operating Within & Without Idaho 260
- Sack Type Containers -- Fifty Pounds or Over, Certification Marks 219
- Sack Type Containers -- Less Than Fifty Pounds, Certification Marks 219
- Safety Chains, Manufactured Homes & Office Trailers Being Towed 431
- Safety, Sanitation Conditions, & Accident Reporting For Railroads 239
- Sales Of Cigarettes to Non-Indians Within Reservation Boundaries, Shipments Delivered on Indian Reservations 374
- Sales Tax to be Collected by Retailer 276
- Sales Through Vending Machines 284
- Sales To & Purchases By Nonprofit Organizations 289
- Sales by Nonprofit Organizations 291
- Sales to American Indians, Sale of Motor Vehicle Within the Boundaries of an Indian Reservation 296
- Sales to Family Members 295
- Sample 190
- Sanitation 154
- School of Electrology 110
- Scope 403
- Scope Of Practice 177
- Scope of the Naturopathic Physician 177
- Scope, Property Exempt From Taxation -- Residential Improvements -- Special Situations 336
- Seawalls, Breakwaters, Quays 56
- Secondary Categories For Improvements - Listing & Reporting 331
- Secondary Categories For Land - Listing & Reporting 328
- Security of Wholesale Drug Distribution Facilities 196
- Segregation & Disposal of Outdated Drugs, Written Policies & Procedures 198
- Self-Employed Worker's Compensation Insurance Premiums, Subtractions Available Only to Individuals 255
- Senior Citizen Centers, Sales To & Purchases By Nonprofit Organizations 291
- Senior Citizens, Food, Meals, or Drinks 283
- Senior Status (Rule 375) 151
- Separate Fund for Deposit of Bonds 194
- Service to Minors, Denial or Termination of Service With Prior Notice 233
- Shipments Delivered On Indian Reservations 373
- Shipments In Interstate Commerce 373
- Shipments Without Idaho Indicia, Shipments Delivered on Indian Reservations 373
- Signing Requirements Of Oversize Vehicles & Loads 426
- Single Claim, Sufficiency of Claims 385
- Single Family Dock 64
- Single Family Docks 64
- Single or Multiple Family Docks 64
- Single-Family & Two-Family Docks 44
- Single-Family & Two-Family Navigational Encroachments 52
- Single-Family Dock 43
- Site Visits/Familiarization Tours (FAMS) 204
- Situs Property 325
- Size, Certification Mark 218
- Sleep Disorder Center or Laboratory 91
- Small Domestic & Stockwater, Flat Fee 380
- Small Purchases 397
- Snowgrooming & Snowmaking Equipment 299
- Social Security & Railroad Retirement Benefits, Subtractions Available Only to Individuals 254
- Social Work Supervisor Registration 139
- Special Characters or Marks, Personalized License Plates 412
- Special Competency Certification 177
- Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units With Multiple Funds 306
- Special Provisions for Cities With Existing Library Operations or Services Consolidating With Any Library District 306
- Special Provisions for Fire Districts Levying Against Operating Property 305
- Special Provisions for Interim Abatement Districts 307
- Special Provisions for Library Districts Consolidating With Any City's Existing Library Operations or Services 306

- Special Provisions for Property Tax Replacement Pursuant to Section 63-3067, Idaho Code 305
- Special Provisions for School Districts' Tort Funds - Hypothetical New Construction Levy 306
- Special Rules -- Financial Institutions 260
- Specialized Appraisal Services 160
- Specific Requests, Personalized License Plates 413
- Speculative Homesite, Listing & Reporting 329
- Speech-Language Pathologist Aide Licensure 171
- Speech-Language Pathologist Assistant Licensure 171
- Speech-language Pathologist Licensure 171
- Speed Limit Requirements, Vehicles for Towing Manufactured Homes & Office Trailers 432
- Speed or Proximity, Negligent Operation 187
- Splitting of Requirements, Small Purchases 397
- Spreading of Human Ashes 185
- Standard Deduction for Married Filing Joint Returns, Proration of Exemptions & Deductions 257
- Standard of Care 80
- Standard or Itemized Deduction, Subtractions Available Only to Individuals 254
- Standardized Rental Rates 67
- Standards For Marketing & Producer Training 32
- Standards Of Conduct & Practice 154
- State & Local Sales Tax, Additions Required Only of Individuals 253
- State Brand Grade & Packaging Requirements, Branding, Grade & Packaging Requirements of State Brand 221
- State Law Claim Form 379
- State Law Claim Form - Insufficient Claims, Waivers, Sufficiency of Claims 392
- Statement Of Public Policy & Code Of Professional Conduct 141
- Statute of Limitations, Refund Claims 298
- Stream Channel Alteration Permit or Encroachment Permit 65
- Street & Mailing Address 417
- Subject Material, Continuing Education 108, 124
- Submerged Lands 43, 64
- Submerged Lands Lease Required Upon Notification 65
- Submission of Additional Information, Equalization of Assessments 312
- Submission of License Renewal Application Form, Continuing Education 136
- Submit Proof of Birth, Apprentice Training 118
- Submittal of Corrections to Erroneous Abstracts or Related Documents 328
- Substantive Use, Tangible Personal Property 288
- Substituting Education for Experience 122
- Substituting Experience for Education 122
- Substituting Experience for Experience 123
- Sufficiency Of Claims 385
- Summary Suspension - Lack of Compliance 104
- Sunset Clause 58
- Supervised Experience Requirement 146
- Supervised Marriage & Family Therapy Experience 147
- Supervising Physician 84
- Supervision 138
- Supervision of Respiratory Care 91
- Supervisor - Responsibilities - Restrictions, Provisional Permit 172
- Supplemental Reports, Distributor's Fuel Tax Reports 356
- Surrender of Plates, Vehicle Dealer Loaner Plates 409
- Suspicious of Malignancy 176
- T**
- Tables Identifying the Idaho Tax Rates & Income Tax Brackets, Tax on Individuals, Estates, & Trusts 249
- Tangible Personal Property Brought Or Shipped To Idaho 288
- Tax Code Maps, Operating Property 324
- Tax Computation, Tax on Individuals, Estates, & Trusts 249
- Tax Levy -- Certification -- Urban Renewal Districts 346
- Tax Liability, Priority Order of Credits & Adjustments to Credits 270
- Tax On Individuals, Estates, & Trusts 249
- Tax Paid to Another State 294
- Tax Reports to be Made by Dealers, Handlers 217
- Tax Resulting From the Election Under Section 63-3022L, Idaho Code 259
- Tax Returns & Other Documents Filed Electronically 375
- Tax Returns Filed Electronically 375
- Tax on S Corporations 259
- Tax to be Separately Displayed, Separate From Item Being Sold 277
- Taxable Purchases by Establishments, Food, Meals, or Drinks 284
- Taxes Eligible for the Credit 263
- Taxes Not Eligible for the Credit, Credit for Taxes Paid Another State or Territory 263
- Taxes Paid in Response to a Notice of Deficiency Determination 298
- Taxpayers Entitled to the Credit 263, 268
- Technician Certificate 157
- Telephone & FAX numbers 417
- Temporary Permit Fee 99
- Temporary Permits 55
- Temporary Permits or Easements 64
- Temporary Registration 408
- Temporary Registration For New, Replacement, Or Reissued License Plates 408
- Term of Lease, Renewal of Lease 65
- Termination of Access & Discipline 202
- Termination of Registration, Extern/ Interns/Residents 85
- Termination of Service 233
- Tested for Equalization, Equalization of Assessments 311
- Testimony 404
- Testing for Current Market Value 322
- The Advertising Rules for Social Workers 142
- The Apportionment Percentage, Financial Institutions 262

The Cost Approach, Assessment of Operating Property 326
The Income Approach, Assessment of Operating Property 326
The Market Approach, Assessment of Operating Property 326
The Social Worker's Conduct & Compartmentment as a Social Worker 141
The Social Worker's Ethical Responsibility to Clients 141
The Unit Method, Assessment of Operating Property 325
Third Party Logistics Provider 190
Three Factor Test 313
Time of Payment 380
Timely Claim Required for Refund 272
Timely Reporting, Distributor's Fuel Tax Reports 356
Times When Service May Be Denied Or Terminated -- Opportunity To Avoid Termination Of Service 233
Times When Service May Be Denied or Terminated 234
Timing of Notice, Notice of Hearing 211
Title 403
Title & Scope 403
To Claim Credit for a Bad Debt 288
Total Fee 379
Tote Bin Type, Certification Marks 219
Towing Vehicle, Vehicles for Towing Manufactured Homes & Office Trailers 432
Trainees, Administrators-In-Training 133
Training Requirements 153
Transcripts 211
Transfer of Ownership/Deferred Taxes, Forest Land 350
Transfer of Plates, Personalized License Plates 413
Transient Equipment, Tangible Personal Property 288
Transportation Of Hazardous Material By Rail 239
Travel & Trade Shows 204
Treat Any Lesion Requiring Surgical Removal 176
Treatments 177

Two-Family Dock 43
Two-Way Radio, Vehicles for Towing Manufactured Homes & Office Trailers 432
Types of Conveyances, Shipments in Interstate Commerce 373
Types, Wells 281

U

Undyed Diesel Fuel Used for Heating Purposes 366
Unethical Advertising 80, 182
Unexpired Fees, Personalized License Plates 414
Uniform Standards of Professional Appraisal Practice or USPAP 161
Uniform System Of Accounts For Electric Utilities 227
Uniform System Of Accounts For Gas Utilities 227
Uniform System Of Accounts For Telephone Utilities 227
Uniform System Of Accounts For Water Utilities 228
Unitary Taxpayers 270
Unitary Taxpayers, Credit for Qualifying New Employees -- Calculations Used to Determine the Credit & Credit Carryover 267
Unsafe Operation - Person In Vicinity of Vessel 187
Unsafe Seating While Underway 187
Uplands 44, 64
Urban Renewal Increment & Exemption to be Subtracted 324
Use Of Ratio Study To Equalize 322
Use Of Ratio Study to Test for Equalization in Counties 311
Use of Alternate Ratio Study, Equalization of Assessments 312
Use of Property Designations, Ratio for Each School District 323
Use of Ratio Study Results, Equalization of Assessments 311
User Fee, Vehicle Dealer Loaner Plates 410
Utility System Land & Improvements, Listing & Reporting 333
Utility System Vacant Land, Listing & Reporting 331

V

Valid Income Tax Returns 271

Value of Annexation to Exclude New Construction, Budget Certification Relating to New Construction 302
Valuing Land, Land Actively Devoted to Agriculture, Excluding the Homesite 339
Valuing the Taxable Part of Qualifying Property 334
Variable Fee 379
Variable Fees 381
Vehicle Dealer License Plates Restrictions 409
Vehicle Dealer Loaner Plates 409
Vehicle Dealer Transporter Registration & Plate 410
Vehicle Log, Vehicle Dealer Loaner Plates 409
Vehicle Use Donation for Civic & Charitable Events 410
Vehicles & Vessels - Gifts, Military Personnel, Nonresident, New Resident, Tax Paid To Another State, Sales To Family Members, Sales To American Indians, & Other Exemptions 293
Vehicles & Vessels Purchased in Idaho by Nonresidents for Use Outside Idaho 296
Vehicles For Towing Manufactured Homes & Office Trailers 432
Vehicles Purchased From Idaho Dealers 292
Vehicles Purchased From Nondealers 292
Vehicles Purchased From Out-of-State Dealers 292
Vehicles Rented or Leased, Motor Vehicles - Sales, Rentals, & Leases 292
Verification of Attendance, 136
Verification of Attendance, Continuing Education 108, 124
Verification of Compliance 182
Verification of Idaho Income Tax Withheld 271
Videos 204
Violation Penalties, Section 109.3, International Fire Code 24
Violations - Penalties 59
Volume Size--Number of Pages 213
Volumes of Transcript--Indices to Volumes 212

Volunteer License 78

W

Waiver Of Limitations For Emergency
Movements 422

Waste, Listing & Reporting 331

Wastewater Land Application License,
Renewal or Reinstatement of
License 125

Water Delivery Organization 379

Water Delivery System 379

Water Resources Permit 58

Water's Edge -- Elements Of A
Combined Report 262

Weaving, Negligent Operation 187

Weight, Manufactured Homes & Office
Trailers Being Towed 431

Well Drillers/Pump Installers 280

Well Drillers/Pump Installers as a
Retailer 281

When Denial or Termination of Service
is Prohibited, Opportunity to Avoid
Termination of Service 233

When Idaho Potato Commission Tax is
Due 216

When Signs Are Required, Signing
Requirements of Oversize Vehicles &
Loads 426

Wholesale Distribution 191

Wholesale Drug Distributor Licensing
Requirement 192

Width, Manufactured Homes & Office
Trailers Being Towed 431

Willful Waste of Service, Denial or
Termination of Service With Prior
Notice 233

Withdrawals 437

Withdrawals From a Medical Savings
Account, Additions Required Only of
Individuals 253

Withdrawals From an Idaho College
Savings Program, Additions
Required Only of Individuals 253

Witnesses & Evidence 405

Words Printed, Certification
Marks 219

Written Comments or Objections,
Processing of Applications for All
Other Types of Encroachments 54

Written Examination 112

Written Interpretations 403, 417

Written Notice 232, 235

Written Objections 52

Written Policies & Procedures,
Wholesale Drug Distributors 197
Written Registry & Clinical Simulation
Examinations 91

Y

Year Deficiency Occurs, Recapture,
Idaho Small Employer Incentive Act
Of 2005 273

Year of Manufacture Plates, License
Plate Provisions for Special
Plates 411

Yearly Reporting 67