

IDAHO ADMINISTRATIVE BULLETIN

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Preface

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

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of 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 Notice of Rulemaking 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 07-1 refers to the first Bulletin issued in calendar year 2007; Bulletin 08-1 refers to the first Bulletin issued in calendar year 2008. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 08-1 refers to January 2008; Volume No. 08-2 refers to February 2008; and so forth. Example: The Bulletin published in January 2008 is cited as Volume 08-1. The December 2007 Bulletin is cited as Volume 07-12.

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, even when published in conjunction with a temporary rule, and therefore, is not enforceable. An agency may vacate a proposed rulemaking if it decides not to proceed beyond the proposed rulemaking step, and stops the formal rulemaking 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 "-", (38-0501-0801). 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. 38-0501-0801"

"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).

"0801" 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 2008. A subsequent rulemaking on this same rule chapter in calendar year 2008 would be designated as "0802". The docket number in this scenario would be 38-0501-0802.

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 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 23, 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, 2008

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2009

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
09-1	January 2009	*November 14, 2008	January 7, 2009	January 28, 2009
09-2	February 2009	January 9, 2009	February 4, 2009	February 25, 2009
09-3	March 2009	February 6, 2009	March 4, 2009	March 25, 2009
09-4	April 2009	March 6, 2009	April 1, 2009	April 22, 2009
09-5	May 2009	April 3, 2009	May 6, 2009	May 27, 2009
09-6	June 2009	May 1, 2009	June 3, 2009	June 24, 2009
09-7	July 2009	May 29, 2009	July 1, 2009	July 22, 2009
09-8	August 2009	July 3, 2009	August 5, 2009	August 26, 2009
09-9	September 2009	July 31, 2009	September 2, 2009	September 23, 2009
09-10	October 2009	**August 28, 2009	October 7, 2009	October 28, 2009
09-11	November 2009	October 2, 2009	November 4, 2009	November 25, 2009
09-12	December 2009	November 6, 2009	December 2, 2009	December 23, 2009

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

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

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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2008-01

ESTABLISHING THE PUBLIC SAFETY COMMUNICATIONS GOVERNANCE COUNCIL

WHEREAS, Public safety communication is defined as; communication infrastructure, equipment and adequate bandwidth in support of emergency management and public safety services in Idaho; and

WHEREAS, the presence of a cohesive safety communication council is critical to the citizens of the state of Idaho; and

WHEREAS, Public Safety Services (PSS) is defined as those services, systems, functions and facilities identified in the State of Idaho's Emergency Operation Plan.

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

1. The establishment of Idaho Public Safety Communications Governance Council (PSCGC). The mission of the PSCGC is to manage the demand for state and statewide public safety communication needs in Idaho.
2. The Council's responsibilities shall be:
 - A. Make decisions regarding public safety communications network architecture, network capacity and the management of that capacity.
 - B. Deal with crisis communications requirements.
 - C. Set levels of access during emergencies.
 - D. Develop innovative funding solutions to maintain and grow infrastructure as required.
 - E. Oversee the investment program status.
 - F. Sign service-level agreement with agencies who have been approved to use the systems.
 - G. Coordinate and manage relationships with partner agencies.
 - H. Set management priorities.
3. Voting membership shall include a chair and the directors of the following State entities or their designees:
 - A. Adjutant General, Idaho Military Division (chair);
 - B. Idaho State Police;
 - C. Department of Administration;
 - D. Idaho Transportation Department;
 - E. Department of Health and Welfare; and
 - F. Others as determined by the Chair.
4. Non-Voting members shall include the following:
 - A. Executive Office of the Governor;
 - B. State Communications (EMS/ITD Dispatch);
 - C. Bureau of Homeland Security;
 - D. Public Safety Communications (Microwave Services);
 - E. Emergency Communications Commission;
 - F. Statewide Interoperability Executive Council;
 - G. Information Technology Resource Management Council; and
 - H. Others as determined by the Chair.

5. *All members shall serve at the pleasure of the Governor.*
6. *The Council shall submit a report of its activities to the Governor and the Legislature annually.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 4th day of January in the year of our Lord two thousand and eight, and of the Independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

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

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0508

NOTICE OF RULEMAKING - CORRECTION TO FINAL RULE

CORRECTION SUMMARY: This notice corrects an error in the published rule text of the final rule promulgated under Docket No. 08-0202-0508. The pending rule was adopted and published in the December 5, 2005, Idaho Administrative Bulletin, Volume 05-12. During the rulemaking promulgated under Docket No. 08-0202-0602 part of the text of the rule promulgated and adopted as final under Docket No. 08-0202-0508 was inadvertently removed. Those parts of Section 028 that were amended under Docket No. 08-0202-0508 are reprinted here as originally promulgated and adopted as a final rule with an effective date of 4/11/06. Changes made to the rule under Docket No. 08-0202-0602 have an effective date of 3/30/07 and did not affect the text that was adopted as final under Docket No. 08-0202-0508.

AUTHORITY: In compliance with Sections 67-5224, 67-5226, 67-5227, and 67-5228, Idaho Code, notice is hereby given that this agency has corrected the final. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code and has is being published as codified with the approval of the Administrative Rules Coordinator.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The pending rule was published in the December 7, 2005, Idaho Administrative Bulletin, Volume 05-12, pages 44 and 45. The text of the proposed rule was published in the September 7, 2005, Idaho Administrative Bulletin, Volume 05-9, pages 56 through 59.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction to pending and temporary rule, contact Joan MacMillan, State Department of Education at (208)332-6812.

For questions concerning the publication of this specific notice, contact Dennis Stevenson, Administrative Rules Coordinator at (208)332-1820.

DATED this 22nd day of February, 2008.

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

**THE FOLLOWING IS THE TEXT OF THE FINAL RULE AS ADOPTED AND
CODIFIED UNDER DOCKET NOS. 08-0202-0508 AND 08-0202-0602**

028. EXCEPTIONAL CHILD CERTIFICATE.

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

01. General Education Requirements. Completion of the general education requirements at an accredited college or university is required. (3-30-07)

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

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

03. Hearing Impairment Endorsement (K-12). Completion of a minimum of thirty (30) semester credit hours in the area of hearing impairment. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Hearing Impaired endorsement, a candidate must have satisfied the following requirements: (4-11-06)

- a. Completion of a baccalaureate degree from an accredited college or university; (4-11-06)
- b. Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or (4-11-06)
- c. Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; (4-11-06)
- d. Completion of a program of a minimum of thirty (30) semester credit hours in the area of Hearing Impairment. Must receive an institutional recommendation specific to this endorsement from an accredited college or university. (4-11-06)

04. Visual Impairment Endorsement (K-12). Completion of a program of a minimum of thirty (30) semester credit hours in the area of visual impairment. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Visually Impaired endorsement, a candidate must have satisfied the following requirements: (4-11-06)

- a. Completion of a baccalaureate degree from an accredited college or university; (4-11-06)
- b. Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or (4-11-06)
- c. Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; (4-11-06)
- d. Completion of a program of a minimum of thirty (30) semester credit hours in the area of Visual Impairment. Must receive an institutional recommendation specific to this endorsement from an accredited college or university. (4-11-06)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0708

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code; and Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

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 December, 5, 2007, Idaho Administrative Bulletin, Vol. 07-12, pages 83 through 85.

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

There will be a minimal fiscal impact due to this rule change. Travel costs for participants will be reduced by approximately \$615 per year, while the cost of providing telehealth sessions will be approximately \$520. The Department estimates that thirteen episodes of psychiatric telehealth will be provided in 2008 and produce a total savings to Medicaid funds of approximately \$95 per year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pat Guidry at (208) 364-1813.

DATED this 21st day of February, 2008.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor

P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

DOCKET NO. 16-0309-0708 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-12, December 5, 2007, pages 83 through 85.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0709

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code; also Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

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:

No changes were made to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the December 5, 2007, Idaho Administrative Bulletin, Vol. 07-12, pages 86 through 89.

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

This rulemaking is anticipated to be cost neutral and will have not fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pat Guidry at (208) 364-1813.

DATED this 29th day of February, 2008.

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

DOCKET NO. 16-0309-0709 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-12, December 5, 2007, pages 86 through 89.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0707

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code; also Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

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:

No changes were made to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the December 5, 2007, Idaho Administrative Bulletin, Vol. 07-12, pages 90 through 95.

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

This rulemaking is anticipated to be cost neutral and will have not fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pat Guidry at (208) 364-1813.

DATED this 29th day of February, 2008.

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

DOCKET NO. 16-0310-0707 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 07-12, December 5, 2007, pages 90 through 95.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.03 - FEES FOR COMMUNITY MENTAL HEALTH SERVICES

DOCKET NO. 16-0403-0801

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment through Friday, June 6, 2008. The action is authorized pursuant to Sections 39-3133, 39-3137, and 56-1007, Idaho Code.

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

Wednesday, April 30, 2008	Thursday, May 15, 2008	Thursday, May 29, 2008
1:00 p.m. PDT H & W Region I Office 2195 Ironwood Court Coeur d'Alene, ID	1:00 p.m. MDT H & W Region VI Office 421 Memorial Drive, Rm. 210 Pocatello, ID	1:00 p.m. MDT J.R. Williams Building East Conference Room 700 W. State St., 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 Department has received requests for these public hearings as found in the notice of proposed rulemaking in the January 2, 2008, Idaho Administrative Bulletin Vol. 08-1, page 127.

This chapter of rule is being repealed to avoid confusion and duplication with a chapter of rules being promulgated under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," published under Docket No. 16-0701-0801 in the same bulletin.

ADDITIONAL PUBLIC MEETINGS: For more information go to: http://adm.idaho.gov/adminrules/bulletin/public_hearing.html

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Scott Tiffany at (208) 332-7243.

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 June 6, 2008.

DATED this 7th day of March, 2008.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.13 - RULES GOVERNING EMERGENCY ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0613-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 56-201, 56-202(b), Idaho Code, and Title IV-A.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Wednesday, June 11, 2008

1:00 - 3:00 p.m.

**Idaho Department of Health and Welfare
Pete T. Cenarrusa Building
450 W. State St. - 7th Floor, Rm. 7a
Boise, Idaho 83720**

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking must do the following:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at a negotiated rulemaking meeting;
3. Submit written recommendations and comments to the address below.

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

The proposed rule changes will simplify, streamline, and increase the efficiency of the administration of Emergency Assistance (EA) funds by: updating the definition section; clarifying conditions that make up an emergency condition; clarifying who is the service population; reducing the complexity of eligibility criteria; and ensuring compliance with federal law.

The Department is initiating negotiated rulemaking in order to gather input from interested parties regarding this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Marian Woods at (208) 334-0683.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 18, 2008.

DATED this 7th day of March, 2008.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.01 - BEHAVIORAL HEALTH FEE SCHEDULES

DOCKET NO. 16-0701-0801

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment through Friday, June 6, 2008. The action is authorized pursuant to Sections 16-2433, 19-2524, 20-520(i), 20-511A, 39-3137, and 39-309, Idaho Code.

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

Wednesday, April 30, 2008	Thursday, May 15, 2008	Thursday, May 29, 2008
1:00 p.m. PDT H & W Region I Office 2195 Ironwood Court Coeur d'Alene, ID	1:00 p.m. MDT H & W Region VI Office 421 Memorial Drive, Rm. 210 Pocatello, ID	1:00 p.m. MDT J.R. Williams Building East Conference Room 700 W. State St., 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 Department promulgated a new chapter pertaining to the fee schedules for Behavioral Health services that published in the January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, pages 132 through 139. This new chapter went into effect on January 1, 2008.

Due to the volume of public comments and the requests for public hearings received during the twenty-one day public comment period for this new chapter of rules, public hearings have been scheduled. You are invited to testify at the public hearings. You may also submit written comments. Oral testimony and written comments are given the same consideration. The public comment period for the proposed rule has been extended through Friday, June 6, 2008.

ADDITIONAL PUBLIC MEETINGS: For more information go to: http://adm.idaho.gov/adminrules/bulletin/public_hearing.html

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Scott Tiffany, Division of Behavioral Health, at (208) 332-7243.

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 Friday, June 6, 2008.

DATED this 7th day of March, 2008.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.10 - BEHAVIORAL HEALTH DEVELOPMENT GRANTS

DOCKET NO. 16-0710-0801

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment through Friday, June 6, 2008. The action is authorized pursuant to Sections 39-3133, 39-3134A, and 39-3136, Idaho Code.

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

Wednesday, April 30, 2008	Thursday, May 15, 2008	Thursday, May 29, 2008
1:00 p.m. PDT H & W Region I Office 2195 Ironwood Court Coeur d'Alene, ID	1:00 p.m. MDT H & W Region VI Office 421 Memorial Drive, Rm. 210 Pocatello, ID	1:00 p.m. MDT J.R. Williams Building East Conference Room 700 W. State St., 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 Department has received requests for these public hearings as found in the notice of proposed rulemaking in the January 2, 2008, Idaho Administrative Bulletin Vol. 08-1, pages 140 through 148. The Legislature has designated the Department of Health and Welfare as the State Mental Health Authority and has given it the responsibility to help improve, expand, and modify the mental health and substance abuse treatment services delivery system. These proposed rules provide the framework for grant application requirements, criteria, and distribution for grants to meet the mental health and substance abuse treatment services needed to improve services unique to each region of the state.

ADDITIONAL PUBLIC MEETINGS: For more information go to: http://adm.idaho.gov/adminrules/bulletin/public_hearing.html

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Scott Tiffany at (208) 332-7243.

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 June 6, 2008.

DATED this 7th day of March, 2008.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.07.17 - ALCOHOL AND SUBSTANCE USE DISORDER SERVICES

DOCKET NO. 16-0717-0801

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment through Friday, June 6, 2008. The action is authorized pursuant to Sections 16-2433, 19-2524, 20-520(i), 20-511A, 39-3137, and 39-309, Idaho Code.

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

Wednesday, April 30, 2008	Thursday, May 15, 2008	Thursday, May 29, 2008
1:00 p.m. PDT H & W Region I Office 2195 Ironwood Court Coeur d'Alene, ID	1:00 p.m. MDT H & W Region VI Office 421 Memorial Drive, Rm. 210 Pocatello, ID	1:00 p.m. MDT J.R. Williams Building East Conference Room 700 W. State St., Boise, ID

The hearing sites 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 Department promulgated a new chapter pertaining to the oversight of adult and adolescent substance use disorder services that published in the January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, pages 149 through 158.

Due to the volume of public comments and the requests for public hearings received during the twenty-one day public comment period for this new chapter of rules, public hearings have been scheduled. You are invited to testify at the public hearings. You may also submit written comments. Oral testimony and written comments are given the same consideration.

ADDITIONAL PUBLIC MEETINGS: For more information go to: http://adm.idaho.gov/adminrules/bulletin/public_hearing.html

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Bethany Gadzinski, Division of Behavioral Health, at (208) 334-5736.

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 Friday, June 6, 2008.

DATED this 7th day of March, 2008.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.33 - ADULT MENTAL HEALTH SERVICES

DOCKET NO. 16-0733-0801

NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period for public comment through Friday, June 6, 2008. The action is authorized pursuant to Sections 39-3133, and 56-1003(3)(c), Idaho Code.

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

Wednesday, April 30, 2008	Thursday, May 15, 2008	Thursday, May 29, 2008
1:00 p.m. PDT H & W Region I Office 2195 Ironwood Court Coeur d'Alene, ID	1:00 p.m. MDT H & W Region VI Office 421 Memorial Drive, Rm 210 Pocatello, ID	1:00 p.m. MDT J.R. Williams Building East Conference Room 700 W. State St., Boise, ID

The hearing sites 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 Department promulgated a new chapter pertaining to the oversight of adult mental health services that published in the January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, pages 159 through 166. This new chapter went into effect on January 1, 2008.

Due to the volume of public comments and the requests for public hearings received during the twenty-one day public comment period for this new chapter of rules, public hearings have been scheduled. You are invited to testify at the public hearings and submit written comments. Oral testimony and written comments are given the same consideration.

ADDITIONAL PUBLIC MEETINGS: For more information go to: http://adm.idaho.gov/adminrules/bulletin/public_hearing.html.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Scott Tiffany, Division of Behavioral Health, at (208) 332-7243.

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 Friday, June 6, 2008.

DATED this 7th day of March, 2008.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.37 - CHILDREN'S MENTAL HEALTH SERVICES

DOCKET NO. 16-0737-0801 - NEW CHAPTER

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Tuesday, April 29, 2008	Wednesday, May 14, 2008	Thursday, May 29, 2008
6:30 - 8:30 p.m. PDT H & W Region I Office 2195 Ironwood Court Coeur d'Alene, ID	6:30 - 8:30 p.m. MDT H & W Region VI Office 421 Memorial Drive, Rm 210 Pocatello, ID	6:30 - 8:30 p.m. MDT J.R. Williams Building East Conference Room 700 W. State St., Boise, ID

The meeting sites 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.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may choose any or all of the following options:

1. Attend a negotiated rulemaking meeting and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at a negotiated rulemaking meeting;
3. Submit written recommendations and comments to the address below.

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

The Department is proposing a new chapter of rules to govern mental health services for children under the Children's Mental Health (CMH) Program. This new chapter will be administered by the Department's Division of Behavioral Health and be under the authority of the Department Director. The chapter will define the scope of services under the Children's Mental Health Program and describe the eligibility criteria, application requirements, services, and appeal process under this program. The new Children's Mental Health chapter will incorporate and replace the rules pertaining to children's mental health services currently contained in IDAPA 16.06.01, "Rules Governing Family and Children's Services."

The Department is initiating negotiated rulemaking in order to gather input from interested parties regarding certain key elements of the new Children's Mental Health chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Chuck Halligan at (208) 334-6559 or go to: <http://www.healthandwelfare.idaho.gov/DesktopModules/DocumentsSortableDocumentsSrtView.aspx?tabID=0&ItemID=10117&MIId=10576&wversion=Staging>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Friday, June 6, 2008.

DATED this 7th day of March, 2008.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor

P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0805

NOTICE OF COMMENT PERIOD AND PUBLIC HEARING ON THE PROPOSED REVISION TO THE IDAHO STATE IMPLEMENTATION PLAN, ENACTMENT OF SECTION 39-114, IDAHO CODE

AUTHORITY: In accordance with Section 110(l) of the Clean Air Act and 40 CFR 51.102, notice is hereby given that this agency proposes to hold a public hearing on a proposed revision to the State Implementation Plan (SIP).

PUBLIC HEARING SCHEDULE: A public hearing on the proposed revision to the SIP will be held as follows:

Friday, May 2, 2008, 3:30 p.m.

**Department of Environmental Quality
Conference Room C
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice that it intends to hold a public hearing on a proposed SIP revision that it intends to submit to the Environmental Protection Agency (EPA). The revision includes the enactment of Idaho Code § 39-114 of the Environmental Protection and Health Act pursuant to HB 557, passed by the 2008 Idaho Legislature and signed by the Governor. This statute provides that DEQ develop rules that establish a program for the open burning of crop residue. Rule Docket No. 58-0101-0801 contains the rule changes developed as a result of the legislation. The revision also includes an air quality analysis pursuant to Section 110(l) of the Clean Air Act.

AVAILABILITY OF THE REVISED STATUTE, PROPOSED RULE, AND AIR QUALITY ANALYSIS: By April 2, 2008, a copy of Idaho Code § 39-114 can be obtained at www3.state.id.us/oasis/H0557.html, a copy of the temporary/proposed rule can be obtained at www.deq.idaho.gov/rules/air/58_0101_0801_temporary_proposed.cfm, and the air quality analysis and summary document can be obtained at www.deq.idaho.gov/air/prog_issues/burning/agricultural.cfm or by contacting the undersigned.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed SIP revision, contact Martin Bauer at (208)373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed SIP revision. DEQ will consider all written comments received by the undersigned on or before May 2, 2008.

Dated this 12th day of March, 2008.

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 PACK RIVER NUTRIENT TMDLS (HUC 17010214)

DOCKET NO. 58-0000-0806

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 Pend Oreille Tributaries Total Maximum Daily Loads (TMDLs).

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

The area covered by the Pack River Nutrients TMDL (Hydrologic Unit Code 17010214) addresses ten (10) assessment units (AUs) not listed as impaired for nutrients on Idaho's 2002 § 303(d) list. DEQ completed total phosphorus TMDLs for all AU/pollutant combinations deemed water quality impaired. DEQ has submitted this TMDL document to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

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

Dated this 11th day of March, 2008.

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. 58-0101-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule was adopted by the Board of Environmental Quality on March 12, 2008 with an effective date of April 2, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking. This action is authorized by Sections 39-105 and 39-107, Idaho Code, and House Bill 557 (to be codified at Section 39-114, Idaho Code).

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

Friday, May 2, 2008, 3:30 p.m.

**Department of Environmental Quality
Conference Room C
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to implement the provisions of House Bill 557, wherein the 2008 Idaho Legislature approved a program for the open burning of crop residue to be administered by the Idaho Department of Environmental Quality (IDEQ) and repealed the Smoke Management and Crop Residue Disposal Act previously administered by the Idaho State Department of Agriculture (ISDA). Field burning has been prohibited in Idaho since January 2007 as a result of a 9th Circuit Court of Appeals ruling. In December 2007 representatives of farming organizations, Safe Air for Everyone (SAFE), ISDA, and IDEQ agreed on various components of a program for the open burning of crop residue. House Bill 557 and this rule address the central components of that agreement.

This rule is modeled after the Nez Perce smoke management program which prohibits field burning if air quality levels exceed or are expected to exceed 75% of any national ambient air quality standard. Farmers are required to obtain a notice of approval to burn, provide notice of proposed burns, and pay a registration fee based upon the number of acres to be burned. The rule contains provisions to ensure that the public has ready access to this information. In addition, IDEQ is required to conduct ongoing and annual reviews of the program.

Adoption of this temporary rule does not in itself authorize the open burning of crop residue in Idaho. Before burning can resume in Idaho, several actions must take place, including development of a revised State Implementation Plan (SIP) and approval of the SIP by the U.S. Environmental Protection Agency.

Farmers desiring to burn crop residue, members of the regulated community who may be subject to Idaho's air quality rules as well as special interest groups (including SAFE), ISDA, tribes, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2008 for adoption of a pending rule. The pending rule is expected to become final upon adjournment of the 2009 legislative session if adopted by the Board and approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found

that temporary adoption of the rule is appropriate in that the rule confers a benefit. Adoption of a temporary rule, along with other required actions, will ensure protection of public health and the environment and will enable farmers to use the tool of burning within a program agreed upon by SAFE, ISDA, IDEQ, and other interested parties.

NEGOTIATED RULEMAKING: The text of the rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812-815. On February 6, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-2, page 31, and a preliminary draft rule was made available for public review. Meetings were held on February 12, 15, and 21, 2008. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.

IDAHO CODE SECTION 67-5221(c) FISCAL IMPACT STATEMENT: The adoption of this rule will have one time initial start-up expenses of \$186,700 as well as ongoing program costs estimated to be \$419,700 for a total impact of \$606,377 to the general fund for FY2009. All future receipts remitted to the state for field burning under this rule shall be transferred to the general fund to help with ongoing program costs. At this time, it is unknown how much funding will come from this dedicated source annually.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Martin Bauer at (208)373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before May 2, 2008.

DATED this 12th day of March, 2008.

Paula J. Wilson, Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0801

600. RULES FOR CONTROL OF OPEN BURNING.

The purpose of Sections 600 through ~~61723~~ is to reduce the amount of emissions and minimize the impact of open burning to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. ~~(3-30-07)(4-2-08)T~~

601. FIRE PERMITS, HAZARDOUS MATERIALS, AND LIABILITY.

Compliance with the provisions of Sections 600 through ~~61723~~ does not exempt or excuse any person from complying with applicable laws and ordinances of other jurisdictions responsible for fire control or hazardous material disposal or from liability for damages or injuries which may result from open burning. ~~(3-21-03)(4-2-08)T~~

602. NONPREEMPTION OF OTHER JURISDICTIONS.

The provisions of Sections 600 through ~~61723~~ are not intended to interfere with the rights of any city, county or other governmental entities or agencies to provide equal or more stringent control of open burning within their respective jurisdictions. ~~(3-21-03)(4-2-08)T~~

603. GENERAL RESTRICTIONS.

01. Categories and Materials. No person shall allow, suffer, cause or permit any open burning operation unless it is a category of open burning set forth in Sections 600 through ~~617~~623 and the materials burned do not include any of the following: ~~(3-21-03)(4-2-08)T~~

- a. Garbage, as defined in Section 006. (3-21-03)
- b. Dead animals, animal parts, or animal wastes (feces, feathers, litter, etc.) except as provided in Section 616. (3-21-03)
- c. Motor vehicles, parts, or any materials resulting from a salvage operation. (3-21-03)
- d. Tires or other rubber materials or products. (3-21-03)
- e. Plastics. (3-21-03)
- f. Asphalt or composition roofing or any other asphaltic material or product. (3-21-03)
- g. Tar, tar paper, waste or heavy petroleum products, or paints. (3-21-03)
- h. Lumber or timbers treated with preservatives. (3-21-03)
- i. Trade waste, as defined in Section 006, except as specifically allowed under Sections 600 through ~~617~~623. ~~(3-21-03)(4-2-08)T~~
- j. Insulated wire. (3-21-03)
- k. Pathogenic wastes. (3-21-03)
- l. Hazardous wastes. (5-1-94)

02. Air Pollution Episodes. No person shall allow, suffer, cause or permit any open burning to be initiated during any stage of an air pollution episode declared by the Department in accordance with Sections 550, through 562. (3-21-03)

03. Emergency Authority. In accordance with Title 39, Chapter 1, Idaho Code, the Department has the authority to require immediate abatement of any open burning in cases of emergency requiring immediate action to protect human health or safety. (3-21-03)

604. -- 605. (RESERVED).

606. CATEGORIES OF ALLOWABLE BURNING.

The purpose of Sections 606 through ~~617~~623 is to establish categories of open burning that are allowed when done according to prescribed conditions. Unless specifically exempted each category in Sections 606 through ~~617~~623 is subject to all of the provisions of Sections 600 through 605. ~~(3-21-03)(4-2-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

617. CROP RESIDUE DISPOSAL.

The open burning of crop residue on fields where the crops were grown is an allowable form of open burning if conducted in accordance with ~~the Smoke Management and Crop Residue Disposal Act, Chapter 48, Title 22 Section 39-114, Idaho Code, and the rules promulgated pursuant thereto, IDAPA 02.06.16, "Crop Residue Disposal Rules."~~

Sections 618 through 623 of these rules.

~~(3-21-03)~~(4-2-08)T

618. PERMIT BY RULE.

01. General Requirements. All persons shall be deemed to have a permit by rule if they comply with all the provisions of Sections 618 through 623. No person shall conduct an open burn of crop residue without obtaining the applicable permit by rule. The permit by rule does not relieve the applicant from obtaining all other required permits and approvals required by other state and local fire agencies or permitting authorities. (4-2-08)T

02. Forms. The Department shall provide the appropriate forms to complete the permit by rule. Forms may be available at the Department offices or on the Department website. (4-2-08)T

619. REGISTRATION FOR PERMIT BY RULE.

Any person applying to burn crop residue shall annually provide the following registration information to the Department at least thirty (30) days prior to the date the applicant proposes to burn: (4-2-08)T

01. Location of Property. Street address of the property upon which the proposed burning of crop residue will occur or, if there is no street address of the property, the legal description of the property using longitude and latitude coordinates or township, range and section for the Idaho meridian; (4-2-08)T

02. Applicant Information. Name, mailing address, and telephone number of the applicant, and the person who will be responsible for conducting the proposed burning of crop residue and the portable form of communication referenced in Subsection 622.01.c. of this rule; (4-2-08)T

03. Plot Plan. A plot plan showing the location of each proposed crop residue burning area in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, and roads; (4-2-08)T

04. Type, Acreage and Fuel Characteristics of Crop Residue Proposed to be Burned. The crop type, area over which burning will be conducted (acres), and other fuel characteristics; (4-2-08)T

05. Preventive Measures. A description of the measures that will be taken to prevent escaped burns or withhold additional material such that the fire burns down, including but not limited to, the availability of water and plowed firebreaks; and (4-2-08)T

06. Date of Burning. The requested date(s) when the proposed crop residue burning would be conducted or the proposed date the field will be available to be burned. (4-2-08)T

620. REGISTRATION FEE.

01. Payment of Fee. The permit by rule registration fee set out in Section 39-114, Idaho Code, shall be paid in its entirety at least seven (7) days prior to the proposed burn date. The permit by rule registration form and fee should be sent to:

Crop Residue Burning Registration Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255

(4-2-08)T

02. Effect of Payment. Payment of the registration fee does not imply authorization or approval to burn. (4-2-08)T

621. BURN DETERMINATION.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the

Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed seventy-five percent (75%) of the level of any national ambient air quality standards on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: (4-2-08)T

- a.** Expected Emissions. Expected emissions from all burns proposed for the same dates; (4-2-08)T
- b.** Proximity of Other Burns. The proximity of other burns and other potential emission sources within the area to be affected by the proposed burn; (4-2-08)T
- c.** Moisture Content. Moisture content of the material to be burned; (4-2-08)T
- d.** Acreage, Crop Type, and Fuel Characteristics. Acreage, crop type, and fuel characteristics to be burned; (4-2-08)T
- e.** Meteorological Conditions. Meteorological conditions; (4-2-08)T
- f.** Proximity to Institutions with Sensitive Populations. The proximity of the burn to institutions with sensitive populations, including public schools while in session; hospitals; residential health care facilities for children, the elderly or infirm; and other institutions with sensitive populations as approved by the Department. The Department shall not authorize a burn if conditions are such that institutions with sensitive populations will be adversely impacted or when the plume is predicted to impact such institutions; (4-2-08)T
- g.** Proximity to Public Roadways. Proximity to public roadways; (4-2-08)T
- h.** Proximity to Airports. Proximity to airports; and (4-2-08)T
- i.** Other Relevant Factors. Any other factors relevant to preventing exceedances of the air quality concentrations of Section 621. (4-2-08)T

02. **Notification of Approval.** If the Department approves the burn, then it will post on its website written notification of the approval and any specific conditions under which the burn is approved. Special conditions may include, but are not limited to: (4-2-08)T

- a.** Conditions for burns near institutions with sensitive populations; (4-2-08)T
- b.** The requirement to withhold additional material such that the fire burns down if the Department determines pollutant concentrations reach the levels in Subsection 621.01 of this rule; (4-2-08)T
- c.** Conditions to ensure the burn does not create a hazard for travel on a public roadway; and (4-2-08)T
- d.** The requirement to consult with the Department to determine actions to be taken if conditions at the burn site fail to satisfy the conditions specified in the notice of approval to burn. (4-2-08)T

622. GENERAL PROVISIONS.

01. **Burn Provisions.** All persons in Idaho intending to dispose of crop residue through burning shall abide by the following provisions: (4-2-08)T

- a.** Burning Prohibitions. Burning of crop residue shall not be conducted on weekends, federal or state holidays, or after sunset or before sunrise; (4-2-08)T
- b.** Designated Burn Day. Burning of crop residue shall not be conducted unless the Department has

designated that day a burn day and the permittee has received individual approval specifying the conditions under which the burn may be conducted; (4-2-08)T

c. Portable Form of Communication. The person conducting the burning must have on their possession a portable form of communication such as a cellular phone or radio of compatible frequency with the Department in order to receive burn approval information or information that might require measures to withhold additional material such that the fire burns down; (4-2-08)T

d. Location of Field Burning. Open burning of crop residue shall be conducted in the field where it was generated; (4-2-08)T

e. Limitations on Burning. When required by the conditions of the notice of approval to burn, the permittee burning in proximity to institutions with sensitive populations shall immediately extinguish the fire or withhold additional material such that the fire burns down, unless the Department determines that the burn will not have an adverse impact on such institutions; (4-2-08)T

f. Training Session. All persons intending to burn crop residue shall attend a crop residue burning training session provided by the Idaho Department of Environmental Quality or the Idaho State Department of Agriculture and shall attend a crop residue disposal refresher training session every five (5) years; (4-2-08)T

g. Air Stagnation or Degraded Air Quality. All field burning shall be prohibited when the Department issues an air quality forecast and caution, alert, warning or emergency as identified in Section 552 of these rules; (4-2-08)T

h. Allowable Forms of Open Burning. The use of reburn machines, propane flamers, or other portable devices to ignite or reignite a field for the purposes of crop residue burning shall be considered an allowable form of open burning. Tires and other restricted material described in Subsection 603.01, of this rule, are not allowed for ignition of fields; (4-2-08)T

i. Additional Burn Permits. All persons intending to burn crop residue shall obtain any additional applicable permits from federal, state or local fire control authorities prior to receiving approval from the Department to burn crop residue; and (4-2-08)T

j. Reporting to the Department. All persons burning crop residue shall report to the Department the date burning was conducted, the actual number and location of acres burned, and other information as required by the Department. The Department may restrict further burning by a permittee until completed burns are reported. (4-2-08)T

02. Annual Report. The Department shall develop an annual report that shall include, at a minimum, an analysis of the causes of each exceedance of a limitation in Section 621 of this rule, if any, and an assessment of the circumstances associated with any reported endangerment to human health associated with a burn. The report shall include any proposed revisions to these rules or the Crop Residue Operating Guide deemed necessary to prevent future exceedances. (4-2-08)T

03. Advisory Committee. The Department will assemble an advisory committee consisting of representatives from environmental organizations, farming organizations, health organizations, tribal organizations, the Idaho State Department of Agriculture, the Idaho Department of Environmental Quality, and others to discuss open burning of crop residue issues. (4-2-08)T

623. PUBLIC NOTIFICATION.

01. Designation of Burn Days. The Director or his designee shall designate for a given county or airshed within a county burn or no-burn days. (4-2-08)T

02. Posting on Website. The Department shall post daily on its website; (4-2-08)T

a. Whether a given day is a burn or no-burn day; (4-2-08)T

- b.** The location and number of acres permitted to be burned; (4-2-08)T
- c.** Meteorological conditions and any real time ambient air quality monitoring data; and (4-2-08)T
- d.** A toll-free number to receive requests for information. (4-2-08)T

03. E-Mail Update Service. The Department shall provide an opportunity for interested persons to sign up to receive automatic e-mail updates for information regarding the open burning of crop residue. (4-2-08)T

~~618.~~ ~~624.~~ (RESERVED).

625. VISIBLE EMISSIONS.

A person shall not discharge any air pollutant into the atmosphere from any point of emission for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by this section. (4-5-00)

- 01. Exemptions.** The provisions of this section shall not apply to: (4-5-00)
 - a.** Kraft Process Lime Kilns, if operating prior to January 24, 1969; or (5-1-94)
 - b.** Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or (5-1-94)
 - c.** Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or (5-1-94)
 - d.** Wigwam Burners; or (5-1-94)
 - e.** Kraft Process Recovery Furnaces. (5-1-94)
 - f.** Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969. (5-1-94)

02. Standards for Exempted Sources. Except as provided in Section 626, for sources exempted from the provisions of this section, a person shall not discharge into the atmosphere from any point of emission, for any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than forty percent (40%) opacity as determined by this section. (4-5-00)

03. Exception. The provisions of this section shall not apply when the presence of uncombined water, nitrogen oxides and/or chlorine gas are the only reason(s) for the failure of the emission to comply with the requirements of this rule. (4-5-00)

04. Test Methods and Procedures. The appropriate test method under this section shall be EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows: (4-5-00)

- a.** Opacity evaluations shall be conducted using forms available from the Department or similar forms approved by the Department. (4-5-00)
- b.** Opacity shall be determined by counting the number of readings in excess of the percent opacity limitation, dividing this number by four (4) (each reading is deemed to represent fifteen (15) seconds) to find the number of minutes in excess of the percent opacity limitation. This method is described in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986. (4-5-00)
- c.** Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60. (4-5-00)

05. Applicability. Section 625 shall not apply to the open burning of crop residue. (4-2-08)T

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. The meetings will take place simultaneously and will be connected by telephone. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact the undersigned.

Tuesday, April 22, 2008, 9:30 a.m. to 12:30 p.m. Mountain Time		
Department of Environmental Quality Conference Room D 1410 N. Hilton Boise, Idaho	Department of Environmental Quality Large Conference Room 900 N. Skyline, Suite B Idaho Falls, Idaho	Department of Environmental Quality Large Conference Room 2110 Ironwood Parkway Coeur d'Alene, Idaho
Tuesday, May 6, 2008, 9:30 a.m. to 12:30 p.m. Mountain Time		
Department of Environmental Quality Conference Room D 1410 N. Hilton Boise, Idaho	Department of Environmental Quality Large Conference Room 900 N. Skyline, Suite B Idaho Falls, Idaho	Department of Environmental Quality Large Conference Room 2110 Ironwood Parkway Coeur d'Alene, Idaho

PRELIMINARY DRAFT RULE: By April 2, 2008, the preliminary draft rule can be obtained at http://www.deq.idaho.gov/rules/drinking_water/58_0108_0801_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: Under the provisions of IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems, a water main extension, whether approved for construction by the Department of Environmental Quality (DEQ) or by a qualified licensed professional engineer (QLPE), is a material modification to the public water system. The current rules define a simple water main extension as an extension that can be supplied without adding pumping capacity. The current rules also specify that all portions of the existing system that are affected by the line extension must be in compliance with the rules in effect at the time the project is reviewed and approved. This requirement could in some cases require upgrades to existing parts of the water system to meet criteria for pumping redundancy, standby power, fire flow, and other applicable rule requirements such as completion of a facility plan.

The objective of this rulemaking is to modify the recently updated Idaho Rules for Public Drinking Water Systems so that the engineering community can approve simple water main extensions as intended by 2005 SB 1220 and as codified at Section 39-118, Idaho Code.

The preliminary draft rule will include the following proposed revisions:

- (1) Modify the content of facility plans and preliminary engineering reports contained in Sections 502 and 503, respectively;
- (2) Clarify separation requirements for sources of contamination from public drinking water wells (Sections

- 510, 512, and 900);
- (3) Add and clarify design requirements for drinking water distribution systems (Section 542);
 - (4) Further define storage structures and facilities (Section 544); and
 - (5) Clarify several operating criteria for public drinking water systems (Section 552).

This rulemaking will also include any necessary corrections that are typographical and nonsubstantive in nature (e.g., making corrections for consistency with other sections in this rule chapter, IDAPA 58.01.16, Wastewater Rules, and other DEQ rules). These changes will be based on feedback from the regulated community and DEQ staff who routinely use the rules.

Drinking water system owners and operators, developers, consultants, engineers, cities, counties, industry, drinking water professional organizations, and the public at large may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2008 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2008. 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 questions concerning the negotiated rulemaking, contact Michael Stambulis at michael.stambulis@deq.idaho.gov, (208)373-0123.

Anyone may submit written comments regarding this negotiated rulemaking by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before April 24, 2008. To receive subsequent drafts of the negotiated rule, and for information regarding submission of written comments on subsequent drafts, contact the undersigned.

Dated this 7th day of March, 2008.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 - GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-0701

NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has vacated the rulemaking previously initiated under this docket number. This rulemaking action is authorized by Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code.

DESCRIPTIVE SUMMARY: Negotiated rulemaking was conducted in July 2007 with three meetings being held in Boise with connections to Coeur d'Alene, Idaho Falls, and Pocatello through video conferencing. Due to time constraints, the negotiated rulemaking was concluded prior to all parties reaching agreement on a proposed rule. The proposed rule was published in the Idaho Administrative Bulletin on September 5, 2007. During the public comment period for the proposed rule, DEQ received numerous public comments. In November 2007, DEQ submitted a revised version of the proposed rule to the Board of Environmental Quality (Board) for adoption as a pending rule. At its November 2007 meeting, after hearing testimony from DEQ and parties to the negotiated rulemaking, the Board sent the rule back to DEQ for further negotiations.

DEQ is hereby vacating this docket and initiating negotiated rulemaking under Docket No. 58-0111-0801. See the Notice of Intent to Promulgate Rules - Negotiated Rulemaking for Docket No. 58-0111-0801 in this volume of the Idaho Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this vacation of rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov, (208)373-0356.

Dated this 7th day of March, 2007.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 - GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

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

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

Wednesday, April 23, 2008, 1:00 p.m. to 4:30 p.m. Mountain Time	
Idaho Water Center 322 E. Front Street Room 162 Boise, Idaho	University of Idaho Tingey Administration Building Room TAB 321b 1776 Science Center Drive Idaho Falls, Idaho
Idaho State University Basement of Obeler Library Room B3A 850 S. 9th Avenue Pocatello, Idaho	University of Idaho Harbor Center 1000 W. Hubbard Avenue Room 128 Coeur d'Alene, Idaho
Wednesday, May 7, 2008, 1:00 p.m. to 4:30 p.m. Mountain Time	
Idaho Water Center 322 E. Front Street Room 162 Boise, Idaho	University of Idaho Tingey Administration Building Room TAB 321b 1776 Science Center Drive Idaho Falls, Idaho
Idaho State University Basement of Obeler Library Room B07 850 S. 9th Avenue Pocatello, Idaho	University of Idaho Harbor Center CALS Conference Room 1000 W. Hubbard Avenue, Room 145C Coeur d'Alene, Idaho
Wednesday, May 21, 2008, 1:00 p.m. to 4:30 p.m. Mountain Time	
Idaho Water Center 322 E. Front Street Room 162 Boise, Idaho	University of Idaho Tingey Administration Building Rm. TAB 321b 1776 Science Center Drive Idaho Falls, Idaho
Idaho State University Basement of Obeler Library Room B3A 850 S. 9th Avenue Pocatello, Idaho	University of Idaho Harbor Center CALS Conference Room 1000 W. Hubbard Avenue, Room 145C Coeur d'Alene, Idaho

Wednesday, June 4, 2008, 1:00 p.m. to 4:30 p.m. Mountain Time	
Idaho Water Center 322 E. Front Street Room 162 Boise, Idaho	University of Idaho Tingey Administration Building Room TAB 321b 1776 Science Center Drive Idaho Falls, Idaho
Idaho State University Basement of Obeler Library Room B3A 850 S. 9th Avenue Pocatello, Idaho	University of Idaho Harbor Center 1000 W. Hubbard Avenue Room 128 Coeur d'Alene, Idaho

PRELIMINARY DRAFT: By April 2, 2008, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/groundwater/58_0111_0801_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to clarify portions of the Ground Water Quality Rule to promote consistency in application of the rule to mining activities. This rulemaking is a continuation of negotiated rulemaking initiated in July 2007 and will consider the following issues:

- 1) Add definitions necessary to improve statewide consistency with interpretation and implementation of active mineral extraction provisions of the Ground Water Quality Rule;
- 2) Points of compliance for ground water quality related issues at sites with active mineral extraction; and
- 3) Applicability of rule changes.

The mining industry, conservation groups, environmental protection groups, state and federal land management agencies, and concerned citizens of the state of Idaho may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2008 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2008. 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 questions concerning the negotiated rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov, (208)373-0356.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 25, 2008. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 7th day of March, 2008.

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

58.01.16 - WASTEWATER RULES

DOCKET NO. 58-0116-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. The meetings will take place simultaneously and will be connected by telephone. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact the undersigned.

Tuesday, April 22, 2008, 2:00 p.m. to 5:00 p.m. Mountain Time		
Department of Environmental Quality Conference Room D 1410 N. Hilton Boise, Idaho	Department of Environmental Quality Large Conference Room 900 N. Skyline, Suite B Idaho Falls, Idaho	Department of Environmental Quality Large Conference Room 2110 Ironwood Parkway Coeur d'Alene, Idaho
Tuesday, May 6, 2008, 2:00 p.m. to 5:00 p.m. Mountain Time		
Department of Environmental Quality Conference Room D 1410 N. Hilton Boise, Idaho	Department of Environmental Quality Large Conference Room 900 N. Skyline, Suite B Idaho Falls, Idaho	Department of Environmental Quality Large Conference Room 2110 Ironwood Parkway Coeur d'Alene, Idaho

PRELIMINARY DRAFT RULE: By April 2, 2008, the preliminary draft rule can be obtained at http://www.deq.idaho.gov/rules/wastewater/58_0116_0801_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: Under the provisions of IDAPA 58.01.16, "Wastewater Rules," sewer expansions such as major collection and interceptor sewer projects, whether approved for construction by the Idaho Department of Environmental Quality (DEQ) or by a qualified licensed professional engineer (QLPE), require a facility plan or a facility plan update unless the existing approved facility plan covers the entire scope of the proposed extension. Facility plans are currently not required for minor or routine collection system projects. However, the determination of classification as major or minor collection interceptor sewer projects is currently made by DEQ based on review of the owner's recommended classification. In 2005 the Idaho Legislature revised Idaho Code § 39-118 to allow sewer main extensions to be approved for construction by a QLPE without prior review by DEQ (2005 SB 1220). The requirement for an updated facility plan may preclude QLPE-approved sewer main extensions. A requirement by DEQ that all portions of the system affected by the sewer main extension must be in compliance with the current rules, even though the system has sufficient capacity in the new service area, may also preclude QLPE-approved sewer main extensions.

DEQ is proposing this rule revision to allow a QLPE or DEQ review engineer to approve construction of a simple sewer main extension without first providing DEQ with an updated facility plan, provided that the sewer system has sufficient capacity to service the area served by the sewer main extension. The rules define a simple sewer main extension as an extension that can be supplied without adding treatment, disposal, or pumping capacity. The objective of this rulemaking is to modify the recently updated Wastewater Rules so that the engineering community

can approve simple water main extensions as intended by 2005 SB 1220 as codified at Section 39-118, Idaho Code.

The preliminary draft rule proposes the following revisions:

- 1) Modify the content of facility plans and preliminary engineering reports contained in Sections 410 and 411, respectively;
- 2) Streamline the rules for private community municipal wastewater treatment plants (Section 455);
- 3) Add requirements for technical, financial, and managerial capacity of new systems;
- 4) Add requirements for septage transfer stations;
- 5) Revise the lagoon separation distance requirement; and
- 6) Clarify operating criteria for public wastewater systems.

This rulemaking will also include any necessary corrections that are typographical and nonsubstantive in nature (e.g., making corrections for consistency with other sections in this rule chapter, IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems, and other DEQ rules). These changes will be based on feedback from the regulated community and DEQ staff who routinely use the rules.

Wastewater system owners and operators, developers, consultants, engineers, cities, counties, industry, wastewater professional organizations, and the public at large may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2008 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2008. 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 questions concerning the negotiated rulemaking, contact Michael Stambulis at michael.stambulis@deq.idaho.gov, (208)373-0123.

Anyone may submit written comments regarding this negotiated rulemaking by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before April 24, 2008. To receive subsequent drafts of the negotiated rule, and for information regarding submission of written comments on subsequent drafts, contact the undersigned.

Dated this 7th day of March, 2008.

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

**58.01.24 - STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED
CORRECTIVE ACTION AT CHEMICAL RELEASE SITES**

DOCKET NO. 58-0124-0701

NOTICE OF VACATION OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has vacated the rulemaking previously initiated under this docket number. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: Negotiated rulemaking was initiated in June 2007 with two meetings being held in Boise. Based on written comments received and the nature of the issues discussed during the rulemaking meetings, DEQ decided to depart from the rulemaking initiated under this docket.

DEQ is hereby vacating this docket and initiating negotiated rulemaking under Docket No. 58-0124-0801. See the Notice of Intent to Promulgate Rules - Negotiated Rulemaking for Docket No. 58-0124-0801 in this volume of the Idaho Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this vacation of rulemaking, contact Orville Green at orville.green@deq.idaho.gov, (208)373-0278 or Bruce Wicherski at bruce.wicherski@deq.idaho.gov, (208)373-0246.

Dated this 12th day of March, 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

58.01.24 - STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES

DOCKET NO. 58-0124-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

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

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by May 12, 2008.

Thursday, May 15, 2008, 9 a.m. to 4 p.m.

**Department of Environmental Quality
Conference Room D
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By April 23, 2008, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/risk/58_0124_0801_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: DEQ is faced with the task of approving and overseeing appropriate response actions at hundreds of petroleum release sites across the state. In June 2004, DEQ issued the Idaho Risk Evaluation Manual (REM). This manual describes an integrated risk evaluation process for managing chemical release sites that assist DEQ in determining the need for corrective action and, when necessary, the site-specific cleanup levels protective of human health and the environment. The manual also describes the key methodologies and elements of the risk evaluation process. This rulemaking has been initiated to formalize the critical elements of the REM that are pertinent to evaluation of petroleum release sites in order to clarify and promote consistent corrective action decision-making at these sites.

This rule will describe standards and procedures for application of risk based corrective action at petroleum release sites. The text of the rule will be developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the promulgation of these rules. Cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, and members of the public may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2008 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2008. 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 questions concerning the negotiated rulemaking, contact Orville Green at orville.green@deq.idaho.gov, (208)373-0278 or Bruce Wicherski at bruce.wicherski@deq.idaho.gov, (208)373-0246.

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 May 16, 2008. 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 12th day of March 2008.

Paula J. Wilson, Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton Street

Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

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Docket No. **08-0202-0508**

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - Rules for the Control of Air Pollution in Idaho

Docket No. **58-0101-0801**

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

**The written comment deadline is April 23, 2008, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
** Indicates that a public hearing has been scheduled.**

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY 1410 N. Hilton, Boise, ID 83706-1255

****58-0101-0801, Rules for the Control of Air Pollution in Idaho. (Temp & Prop)** Implements the provisions of HB 557 for the open burning of crop residue to be administered by the IDEQ and repeals the Smoke Management and Crop Residue Disposal Act previously administered by the ISDA; prohibits field burning if air quality levels exceed or are expected to exceed 75% of any national ambient air quality standard; requires that farmers obtain a notice of approval to burn, provide notice of proposed burns, and pay a registration fee based upon the number of acres to be burned and ensures that the public has ready access to this information; IDEQ is required to conduct ongoing and annual reviews of the program, develop a revised State Implementation Plan and get approval of the plan by the USEPA before burning can resume in Idaho. Comment by: 5/2/08.

NEGOTIATED RULEMAKING MEETINGS ARE BEING HELD ON THE FOLLOWING:

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

16-0613-0801, Rules Governing Emergency Assistance for Families and Children
16-0737-0801, Children's Mental Health Services (New Chapter)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY 1410 N. Hilton, Boise, ID 83706-1255

58-0108-0801, Idaho Rules for Public Drinking Water Systems
58-0111-0801, Ground Water Quality Rule
58-0116-0801, Wastewater Rules
58-0124-0801, Standards & Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites

PUBLIC HEARINGS HAVE BEEN SCHEDULED FOR THE FOLLOWING:

DEPARTMENT OF HEALTH AND WELFARE

16-0701-0801, Behavioral Health Fee Schedules
16-0710-0801, Behavioral Health Development Grants
16-0717-0801, Alcohol and Substance Use Disorder Services
16-0733-0801, Adult Mental Health Services

DEPARTMENT OF ENVIRONMENTAL QUALITY

58-0000-0805, Proposed Revision to the Idaho State Implementation Plan, Enactment of Section 39-114, Idaho Code (Extended Comment Period and Public Hearing)

Please refer to the Idaho Administrative Bulletin, **April 2, 2008, Volume 08-4** 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 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.

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
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