

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

September 3, 2008 -- Volume 08-9

PREFACE	6
IDAPA 02 - DEPARTMENT OF AGRICULTURE	
<i>02.02.14 - Rules for Weights and Measures</i>	
Docket No. <i>02-0214-0802 (Fee Rule)</i>	
Notice of Rulemaking - Proposed Rule.....	15
<i>02.06.13 - Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho</i>	
Docket No. <i>02-0613-0801</i>	
Notice of Intent to Promulgate Rules - Request for Written Comments.....	18
IDAPA 07 - DIVISION OF BUILDING SAFETY	
<i>07.01.02 - Rules Governing Fees For Electrical Inspections</i>	
Docket No. <i>07-0102-0801 (Fee Rule)</i>	
Notice of Rulemaking - Temporary and Proposed Rule	19
<i>07.01.05 - Rules Governing Examinations</i>	
Docket No. <i>07-0105-0801</i>	
Notice of Rulemaking - Adoption of Pending Rule	23
<i>07.02.03 - Rules Governing Permit Fee Schedule</i>	
Docket No. <i>07-0203-0801 (Fee Rule)</i>	
Notice of Rulemaking - Temporary and Proposed Rule	24
<i>07.02.06 - Rules Concerning Uniform Plumbing Code</i>	
Docket No. <i>07-0206-0801</i>	
Notice of Rulemaking - Proposed Rule.....	28
<i>07.03.01 - Rules of Building Safety</i>	
Docket No. <i>07-0301-0802 (Fee Rule)</i>	
Notice of Rulemaking - Proposed Rule.....	32
<i>07.04.02 - Safety Rules for Elevators, Escalators, and Moving Walks</i>	
Docket No. <i>07-0402-0801</i>	
Notice of Rulemaking - Proposed Rule.....	34
Docket No. <i>07-0402-0802 (Fee Rule)</i>	
Notice of Rulemaking - Temporary and Proposed Rule	36
<i>07.05.01 - Rules of the Public Contractors License Board</i>	
Docket No. <i>07-0501-0801 (Fee Rule)</i>	
Notice of Rulemaking - Adoption of Pending Fee Rule	38

07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety	
Docket No. 07-0701-0801 (Fee Rule)	
Notice of Rulemaking - Temporary and Proposed Rule	39
IDAPA 11 - IDAHO STATE POLICE	
11.07.01 - Rules Governing Motor Vehicles - General Rules	
Docket No. 11-0701-0801	
Notice of Rulemaking - Proposed Rule	42
11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers	
Docket No. 11-1104-0801	
Notice of Rulemaking - Proposed Rule	43
IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE	
16.03.03 - Rules Governing Child Support Services	
Docket No. 16-0303-0801	
Notice of Rulemaking - Adoption of Pending Fee Rule	45
16.03.04 - Rules Governing the Food Stamp Program in Idaho	
Docket No. 16-0304-0801	
Notice of Rulemaking - Adoption of Pending Rule	46
16.03.08 - Rules Governing Temporary Assistance for Families in Idaho (TAFI)	
Docket No. 16-0308-0801	
Notice of Rulemaking - Adoption of Pending Rule	47
16.06.02 - Rules Governing Standards for Child Care Licensing	
Docket No. 16-0602-0801	
Notice of Rulemaking - Proposed Rule	48
16.06.12 - Rules Governing the Idaho Child Care Program (ICCP)	
Docket No. 16-0612-0801	
Notice of Rulemaking - Adoption of Pending Rule	109
16.06.14 - Rules Governing the Prevention of Minors' Access to Tobacco Products	
Docket No. 16-0614-0801 (Chapter Repeal)	
Notice of Rulemaking - Proposed Rule	110
16.07.25 - Prevention of Minors' Access to Tobacco Products	
Docket No. 16-0725-0801 (New Chapter)	
Notice of Rulemaking - Proposed Rule	111
IDAPA 18 - DEPARTMENT OF INSURANCE	
18.01.80 - Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values	
Docket No. 18-0180-0801 (New Chapter)	
Notice of Rulemaking - Proposed Rule	121

IDAPA 20 - DEPARTMENT OF LANDS**20.02.01 - Rules Pertaining to the Idaho Forest Practices Act**Docket No. **20-0201-0801**

Notice of Rulemaking - Proposed Rule..... 125

20.02.09 - Method of Selling Pole-Quality Western Red CedarDocket No. **20-0209-0801 (Chapter Repeal)**

Notice of Rulemaking - Proposed Rule..... 129

20.02.10 - Rules for Selling of Forest Products on State-Owned Endowment LandsDocket No. **20-0210-0801 (Chapter Repeal)**

Notice of Rulemaking - Proposed Rule..... 130

20.02.14 - Rules for Selling Forest Products on State-Owned Endowment LandsDocket No. **20-0214-0801 (New Chapter)**

Notice of Rulemaking - Proposed Rule..... 131

20.06.02 - General Rules, Licensing and Check Scales of the Idaho Board of Scaling PracticesDocket No. **20-0602-0801**

Notice of Rulemaking - Proposed Rule..... 138

20.06.03 - Measurement Rules for Forest Products of the Idaho Board of Scaling PracticesDocket No. **20-0603-0801 (Chapter Repeal)**

Notice of Rulemaking - Proposed Rule..... 145

IDAPA 21 - DIVISION OF VETERANS SERVICES**21.01.04 - Rules Governing the Idaho State Veterans Cemetery**Docket No. **21-0104-0801**

Notice of Rulemaking - Adoption of Pending Fee Rule 146

21.01.04 - Rules Governing the Idaho State Veterans CemeteryDocket No. **21-0104-0802**

Notice of Rulemaking - Proposed Rule..... 147

IDAPA 22 - BOARD OF MEDICINE**22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho**Docket No. **22-0101-0801**

Notice of Rulemaking - Proposed Rule..... 148

22.01.03 - Rules for the Licensure of Physician AssistantsDocket No. **22-0103-0801 (Fee Rule)**

Notice of Rulemaking - Proposed Rule..... 154

IDAPA 23 - BOARD OF NURSING**23.01.01 - Rules of the Idaho Board of Nursing**Docket No. **23-0101-0801**

Notice of Rulemaking - Proposed Rule..... 166

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**24.05.01 - Rules of the Board of Drinking Water and Wastewater Professionals**Docket No. **24-0501-0801**

Notice of Rulemaking - Proposed Rule168

24.11.01 - Rules of the State Board of PodiatryDocket No. **24-1101-0801 (Fee Rule)**

Notice of Rulemaking - Proposed Rule173

24.13.01 - Rules of the Physical Therapy Licensure BoardDocket No. **24-1301-0801 (Fee Rule)**

Notice of Rulemaking - Proposed Rule175

24.16.01 - Rules of the State Board of DentistryDocket No. **24-1601-0801 (Fee Rule)**

Notice of Rulemaking - Proposed Rule177

IDAPA 27 - BOARD OF PHARMACY**27.01.01 - Rules of the Idaho Board of Pharmacy**Docket No. **27-0101-0801**

Notice of Rulemaking - Proposed Rule179

Docket No. **27-0101-0802**

Notice of Rulemaking - Proposed Rule188

Docket No. **27-0101-0803**

Notice of Rulemaking - Proposed Rule193

Docket No. **27-0101-0804**

Notice of Rulemaking - Temporary and Proposed Rule197

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**31.71.03 - Railroad Safety and Accident Reporting Rules**Docket No. **31-7103-0801**

Notice of Rulemaking - Proposed Rule198

IDAPA 33 - REAL ESTATE COMMISSION**33.01.01 - Rules of the Idaho Real Estate Commission**Docket No. **33-0101-0801**

Notice of Rulemaking - Proposed Rule200

IDAPA 35 - IDAHO STATE TAX COMMISSION**35.01.03 - Property Tax Administrative Rules**Docket No. **35-0103-0801**

Notice of Public Hearing and Extension of Written Comment Period203

IDAPA 37 - DEPARTMENT OF WATER RESOURCES**37.03.09 - Well Construction Standards Rules**Docket No. **37-0309-0601**

Notice of Rulemaking - Proposed Rule204

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**39.02.22 - Rules Governing Registration and Permit Fee Administration**Docket No. **39-0222-0801**

Notice of Rulemaking - Proposed Rule246

39.03.06 - Rules Governing Allowable Vehicle SizeDocket No. **39-0306-0801**

Notice of Rulemaking - Temporary and Proposed Rule249

39.03.45 - Rules Governing Sale of No Longer Useful or Usable Real PropertyDocket No. **39-0345-0801**

Notice of Rulemaking - Temporary and Proposed Rule251

IDAPA 52 - IDAHO STATE LOTTERY**52.01.02 - Gaming Rules of the Idaho State Lottery Commission**Docket No. **52-0102-0801**

Notice of Rulemaking - Proposed Rule253

52.01.03 - Rules Governing Operations of the Idaho State LotteryDocket No. **52-0103-0801**

Notice of Rulemaking - Proposed Rule262

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**58.01.01 - Rules for the Control of Air Pollution in Idaho**Docket No. **58-0101-0803**

Notice of Rulemaking - Proposed Rule282

58.01.08 - Idaho Rules for Public Drinking Water SystemsDocket No. **58-0108-0803**

Notice of Rulemaking - Proposed Rule286

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**59.01.03 - Contribution Rules for the Public Employee Retirement System of Idaho (PERSI)**Docket No. **59-0103-0801**

Notice of Rulemaking - Adoption of Pending Rule289

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS290**SUBJECTS AFFECTED INDEX.....295****ABRIDGED EDITION OF THE CUMULATIVE RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES.....306****SUBJECT INDEX.....318**

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.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 01	Accountancy , Board of
IDAPA 38	Administration , Department of
IDAPA 44	Administrative Rules Coordinator , Office of the
IDAPA 02	Agriculture , Idaho Department of
IDAPA 40	Arts , Idaho Commission on the
IDAPA 03	Athletic Commission
IDAPA 04	Attorney General , Office of the
IDAPA 53	Barley Commission , Idaho
IDAPA 51	Beef Council , Idaho
IDAPA 07	Building Safety , Division of Electrical Board (07.01) Plumbing Board (07.02) Building Codes & Manufactured Homes (07.03) Building Code Advisory Board (07.03.01) Public Works Contractors License Board (07.05) Uniform School Building Safety (07.06) HVAC Board (07.07)
IDAPA 43	Canola and Rapeseed Commission , Idaho
IDAPA 28	Commerce , Idaho Department of
IDAPA 06	Correction , Board of
IDAPA 19	Dentistry , Board of
IDAPA 08	Education , Board of and Department of
IDAPA 10	Engineers and Land Surveyors , Board of Professional
IDAPA 58	Environmental Quality , Department of
IDAPA 12	Finance , Department of
IDAPA 13	Fish and Game , Department of
IDAPA 14	Geologists , Board of Registration of Professional
IDAPA 15	Governor , Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Liquor Dispensary (15.10) Idaho Emergency Communications Commission (15.06) Emergency Response Commission (15.13)

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 48	Grape Growers and Wine Producers Commission, Idaho
IDAPA 16	Health and Welfare, Department of
IDAPA 41	Health Districts, Public
IDAPA 45	Human Rights Commission
IDAPA 17	Industrial Commission
IDAPA 18	Insurance, Department of
IDAPA 05	Juvenile Corrections, Department of
IDAPA 09	Labor, Idaho Department of
IDAPA 20	Lands, Department of
IDAPA 30	Libraries, Commission for
IDAPA 52	Lottery Commission, Idaho State
IDAPA 22	Medicine, Board of
IDAPA 23	Nursing, Board of
IDAPA 24	Occupational Licenses, Board of (24.20) Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Barber Examiners, Board of (24.02) Chiropractic Physicians (24.03) Contractors Board, Idaho State (24.21) Cosmetology, Board of (24.04) Dentistry, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board, Idaho (24.22) Morticians, Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Optometry, Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Professional Counselors and Marriage & Family Therapists, Board of (24.15) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of (24.19) Social Work Examiners, Board of (24.14) Speech and Hearing Services Licensure Board(24.23)
IDAPA 25	Outfitters and Guides Licensing Board
IDAPA 50	Pardons and Parole, Commission for
IDAPA 26	Parks and Recreation, Department of
IDAPA 27	Pharmacy, Board of
IDAPA 11	Police, Idaho State

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 29	Potato Commission, Idaho
IDAPA 55	Professional-Technical Education, Division of
IDAPA 59	Public Employee Retirement System of Idaho (PERSI)
IDAPA 31	Public Utilities Commission
IDAPA 56	Rangeland Resources Commission, Idaho
IDAPA 33	Real Estate Commission, Idaho
IDAPA 34	Secretary of State, Office of the
IDAPA 57	Sexual Offender Classification Board
IDAPA 49	Shorthand Reporters, Board of Certified
IDAPA 36	Tax Appeals, Board of
IDAPA 35	Tax Commission, State
IDAPA 39	Transportation Department, Idaho
IDAPA 54	Treasurer, Office of the State
IDAPA 21	Veterans Services, Division of
IDAPA 46	Veterinary Medical Examiners, Board of
IDAPA 47	Vocational Rehabilitation, Division of
IDAPA 37	Water Resources, Department of
IDAPA 42	Wheat Commission

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0802 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 71-111 and 71-121, Idaho Code.

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

Wednesday - September 17, 2008 - 7:00 p.m. to 9:00 p.m

**NAMPA CIVIC CENTER
311 Third Street South
Nampa, Idaho 83651**

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

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

The rule change would increase the annual device license fees and increase rates for request testing to enable the Bureau to meet device testing requirements and fund replacement equipment.

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

KEY	CODE	FEE	KEY	CODE	FEE
scales ≤ 50 lb	A	\$6.00	petroleum meter 30 < 150 gpm	H	\$33.00
scales > 50 ≤ 1159 lb	B	\$12.00	petroleum meter ≥ 150 gpm	I	\$40.00
scales ≥ 1160 ≤ 7499 lb	C	\$24.00	LPG dispenser	J	\$40.00
scales ≥ 7500 ≤ 59,999 lb	D	\$65.00	LPG temperature compensated	K & L	\$60.00
scales 60,000 lb or more	E & F	\$80.00	cordage meter	M	\$5.00
motor-fuel device < 20 gpm	G	\$6.00	fabric meter	N	\$5.00
motor-fuel device 20 ≤ 30 gpm	T	\$10.00	bulk oil meter	O	\$35.00

Special request testing mileage charges are proposed to increase to \$0.55/mile for a car, \$0.75/mile for a pickup and \$2.50/mile for a heavy duty truck. Personnel charges for request tests are proposed to increase to \$30.00/hour.

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

The fiscal impact would be to increase the Bureau of Weights and Measures dedicated funds by \$80,000.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, July 2, 2008, Volume 08-7, page 18. A negotiated rule making meeting was held July 10, 2008 at the Idaho State Department of Agriculture.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tom Schafer, at 332-8690.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 17th day of July, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-0802

016. MAXIMUM LICENSE FEE SCHEDULE FOR COMMERCIALLY USED WEIGHING AND MEASURING INSTRUMENTS AND DEVICES.

The annual license fee for instruments and devices is based on manufacturer's rated capacity. The annual license fee for commercially used instrument and device types not listed in Table 1-A, will be determined by one-third (1/3) of the actual average time costs involved with testing that type of device.

TABLE 1-A		
DEVICE CODE	KEY	FEE
A	Scales ≤ 50 lb	\$ 4.50 <u>6.00</u>
B	Scales > 50 ≤ 1,159 lb	\$ 9 <u>12.00</u>
C	Scales ≥ 1,160 ≤ 7,499 lb	\$ 18 <u>24.00</u>
D	Scales ≥ 7,500 ≤ 59,999 lb	\$ 4 <u>65.00</u>
E & F	Scales 60,000 lbs or more	\$ 57 <u>80.00</u>
G	Motor-fuel device < 320 gpm	\$ 5 <u>6.00</u>
H	Petroleum meter 30 < 150 gpm	\$ 25 <u>33.00</u>
I	Petroleum meter ≥ 150 gpm	\$ 29 <u>40.00</u>
J	LPG dispenser	\$ 3 <u>40.00</u>
K & L	LPG temperature compensated	\$ 45 <u>60.00</u>
M	Cordage meter	\$ 4 <u>5.00</u>

TABLE 1-A		
DEVICE CODE	KEY	FEE
N	Fabric meter	\$ 4 <u>5</u> .00
O	Bulk oil meter	\$ 2 <u>3</u> 5.00
<u>I</u>	<u>Motor-fuel device 20 < 30 gpm</u>	\$10.00

(2-13-04)()

(BREAK IN CONTINUITY OF SECTIONS)

100. CHARGES FOR SPECIAL REQUEST TESTING OR EXAMINATION.

01. Mileage Charges. (7-1-93)

a. ~~Thirty-six~~ Fifty-five cents (\$.36~~5~~5) a mile for car travel. (2-13-04)()

b. ~~Fifty~~ Seventy-five cents (\$.50~~7~~5) a mile for pickup and prover. (2-13-04)()

c. ~~One~~ Two dollars and fifty cents (\$~~1~~2.50) a mile for heavy capacity scale trucks. (2-13-04)()

02. Fee Collection. Such fees will be collected from place where working and back. Where more than one (1) request is to be handled on same trip, the mileage will be prorated between the parties requesting the service. (7-1-93)

03. Personnel Charges. There will also be an hourly personnel charge of ~~twenty-five~~ thirty dollars (\$~~25~~30) per hour per person for special request testing, chargeable during the time of the actual testing and examination of devices and for driving time. (2-13-04)()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.13 - RULES RELATING TO RAPESEED PRODUCTION AND ESTABLISHMENT OF RAPESEED DISTRICTS IN THE STATE OF IDAHO

DOCKET NO. 02-0613-0801

NOTICE OF INTENT TO PROMULGATE RULES - REQUEST FOR WRITTEN COMMENTS

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-108(2), Idaho Code.

METHOD OF PARTICIPATION: Persons wishing to participate in this request for written comments may do so by sending them to:

**Michael E. Cooper
Plant Industries Division
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701-0790**

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance and purpose of the request for written comments:

The production of edible and industrial rapeseed for commercial uses and, seed production has changed significantly since the current rules were adopted and the Department is being asked to update the rules to better reflect the current state of the industry in Idaho. Issues needing to be addressed include but are not limited to:

1. Erucic acid and glucosinolate levels in edible and industrial type of rapeseed;
2. Isolation distances between commercial rapeseed production and seed production;
3. Impact of volunteer plants on commercial and seed production fields;
4. The potential impacts of cross pollination of rapeseed with related vegetable seed production i.e. radish, mustard, rutabaga; and
5. Production of rapeseed for bio-diesel.

A copy of the current rules can be found at the following Internet Website: <http://adm.idaho.gov/adminrules/rules/idapa02/0613.pdf>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this request for comments, contact Michael E. Cooper, Bureau Chief or Thomas Dayley, Administrator at (208) 332-8620.

All written comments must be directed to the undersigned and must be delivered on or before the first day of January, 2009. As the process moves forward, and negotiated rulemaking is scheduled, additional written comments will be accepted.

DATED this 17th day of July, 2008.

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

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.02 - RULES GOVERNING FEES FOR ELECTRICAL INSPECTIONS

DOCKET NO. 07-0102-0801 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

Contractors feel the fee schedule applicable to new residential dwellings for large homes (homes over 4,500 square feet) is too complicated. Additionally, the basis of the permit fee schedule as square footage of living space only is not clearly stated for all sizes of single family dwellings. This rule change would simplify the calculation of permit fees for larger homes (homes over 4,500 square feet) to include a base fee plus additional fees for every 1,000 feet of square footage beyond 4,500 square feet (or a portion thereof). It also clarifies for the entire fee schedule that the square footage basis for the permits includes living space only.

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

This temporary rule is necessary to confer a benefit to affected electrical contractors, general contractors, and property owners doing their own electrical installations by simplifying the calculation of permit fees for larger homes.

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

This proposed rule would simplify the calculation of permit fees for electrical inspections of larger residences.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 16th day of July 2008.

Steve Keys, Deputy Administrator - Operations
 Division of Building Safety
 1090 E. Watertower St.
 Meridian, ID 83642
 Phone: (208) 332-8986
 Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0102-0801

011. FEES FOR ELECTRICAL INSPECTIONS.

Electrical inspection fees are to cover the cost of electrical inspection as provided by Section 54-1005, Idaho Code; any person, partnership, company, firm, association, or corporation making an electrical installation coming under the provisions of Section 54-1001, Idaho Code, shall pay to the Electrical Bureau an inspection fee as provided in the following schedule. (1-14-87)

01. Temporary Construction Services. To be installed for construction purposes only, for a period not to exceed one (1) year: (3-18-99)

a. Two hundred (200) amp or less, one (1) location: sixty-five dollars (\$65). (3-26-08)

b. All others shall be calculated using Subsection 011.06, Other Installations Including Industrial and Commercial, of these rules. (3-18-99)

02. New Residential -- Single Family Dwelling. (Includes all buildings with wiring being constructed on each property.)

New Residential - Single-Family Dwelling	
Up to 1,500 Square feet of construction <u>living space</u>	- \$130 (<i>asterisk removed</i>)
1,501 to 2,500 Square feet of construction <u>living space</u>	- \$195 (<i>asterisk removed</i>)
2,501 to 3,500 Square feet of construction <u>living space</u>	- \$260 (<i>asterisk removed</i>)
3,501 to 4,500 Square feet of construction <u>living space</u>	- \$325 (<i>asterisk removed</i>)
Over 4,500 Square feet of construction <u>living space</u>	- <u>Use Subsection 011.06, Other Installations Including Industrial and Commercial \$325 plus \$65 for each additional 1,000 square feet or portion thereof</u>
* Fee is to include maximum of two (2) inspections up to 1,500 square feet, three (3) inspections 1,501 to 2,500 square feet, four (4) inspections 2,501 to 3,500 square feet, and five (5) inspections 3,501 to 4,500 square feet. Additional inspections charged at requested electrical inspection rate of sixty-five dollars (\$65) per hour.	
New Residential - Multi-Family Dwellings	
Duplex Apartment	- \$260
Three (3) or more multi-family units	- \$130 per Building plus \$65 per Unit

~~(3-26-08)~~(7-1-08)T

a. Existing residential: sixty-five dollars (\$65) plus ten dollars (\$10) for each additional branch circuit up to the maximum of the corresponding square footage of the residential building. (3-26-08)

b. Residential spas, hot tubs, hydro massage tubs, swimming pools: sixty-five dollars (\$65) for each trip to inspect. (Other than residential, use Subsection 011.06, Other Installations Including Industrial and Commercial, of these rules.) (3-26-08)

03. Residential Electric Space Heating and Air Conditioning. When not part of a new residential construction permit, or heat/ventilating/air conditioning permit with no additional wiring: sixty-five dollars (\$65). (3-26-08)

04. Domestic Water Pumps. See Subsection 011.07 - Pumps (Water, Domestic Water, Irrigation, Sewage) -- Each Motor, of these rules. (3-18-99)

05. Mobile/Manufactured Homes. Sixty-five dollars (\$65) basic fee plus ten dollars (\$10) for each additional circuit. (3-26-08)

a. Mobile home and RV parks for distribution wiring including pedestal, service conductors and lot supply to individual units come under Subsection 011.06, Other Installations Including Industrial and Commercial, of these rules. (3-18-99)

06. Other Installations Including Industrial and Commercial. The inspection fees listed in this section shall apply to any and all electrical installations not specifically mentioned elsewhere in this schedule. The electrical cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all electrical wiring and equipment installed as part of the electrical system, factory assembled industrial machinery to be operated by electrical energy shall not be included in calculating these fees. (3-26-08)

a. Wiring cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of total wiring cost. (3-26-08)

b. Wiring cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of wiring cost in excess of ten thousand dollars (\$10,000). (3-26-08)

c. Wiring cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one-half of one percent (.5%) of the portion of wiring costs exceeding one hundred thousand dollars (\$100,000). (3-26-08)

d. All fees calculated under this schedule must be calculated on the total wiring cost of the job, and this figure must be shown on the permit. The inspection fees listed in this Subsection shall apply to any and all electrical installations not specifically mentioned elsewhere in this schedule. The wiring cost shall be the cost to the owner of all labor charges and all wiring materials and equipment installed as part of the wiring system. When labor is performed by the owner, such labor cost shall be based upon the market value of said labor and used or reused materials shall be based at fifty percent (50%) of the column 3 pricing as published by Trade Service Publication or National Price Service Pricing or the actual cost, whichever is greater. For all owner-supplied, factory assembled electrical infrastructural equipment to be installed, the inspection will be based on one-half of one percent (.5%) of total cost of the equipment OR an hourly rate of one hundred thirty dollars (\$130) for the first hour of each inspection and sixty-five dollars (\$65) for each subsequent hour. Factory assembled machinery to be operated by electrical energy shall not be included when calculating these fees. (3-26-08)

e. Small work not exceeding two hundred dollars (\$200) in cost and not involving a change in service connections: ten dollars (\$10). (3-30-06)

07. Pumps (Water, Domestic Water, Irrigation, Sewage) -- Each Motor.

To 25 HP - \$ 65
26 to 200 HP - \$ 95
Over 200 HP - \$130
Phase inverters and roto phase equipment use Subsection 011.06, in addition to the pump motor fee.

(3-26-08)

08. Electrically-Driven Irrigation Machine. Center Pivot: sixty-five dollars (\$65) plus ten dollars (\$10) per tower or drive motor. Other types: sixty-five dollars (\$65) plus ten dollars (\$10) per motor. (Note: No additional fee required for underground feeder). (3-26-08)

09. Electric Signs and Outline Lighting. Electric signs: sixty-five dollars (\$65) per sign; Outline lighting: sixty-five dollars (\$65) per each occupancy. (3-26-08)

10. Requested Inspections. A base fee of sixty-five dollars (\$65) plus an additional sixty-five dollars (\$65) for each hour, or portion thereof, in excess of one (1) hour including travel time. Out-of-state travel expenses shall be paid by the requesting party. (3-26-08)

11. Additional Fees and Reinspection Fees. A base fee of sixty-five dollars (\$65) plus an additional sixty-five dollars (\$65) for each additional hour, or portion thereof, in excess of one (1) hour including travel time, shall also be paid before approval of the installation if the following services are necessary: (3-26-08)

a. Trips to inspect when the submitter of the permit had given notice to the inspector that the work is ready for inspection when it was not, or if the submitter has not clearly given the location of the installation either by directions or maps, or if the inspector cannot gain access to make the inspection. (1-14-87)

b. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. (1-14-87)

c. Each trip necessary to remove a red tag from the jobsite. (1-14-87)

d. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (1-14-87)

e. No permit -- failure to post or send permit and required fee in the prescribed time will, at the discretion of the Division of Building Safety, result in the assessment of a double fee. (3-18-99)

12. Plan Check Fee. Sixty-five dollars (\$65) minimum for one (1) hour or less. Over one (1) hour: sixty-five dollars (\$65) plus sixty-five dollars (\$65) for each hour, or portion thereof, in excess of one (1) hour. (3-26-08)

13. Fees for Temporary Amusement/Industry Electrical Inspections. Each time a ride, concession, or generator is set up: sixty-five dollars (\$65) base fee plus ten dollars (\$10) for each ride, concession, or generator. (3-26-08)

14. Expiration of Permits. Every permit issued by the Electrical Bureau shall expire by limitation and become null and void if the work authorized by such permit is not commenced within ninety (90) days from the date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred eighty (180) days. A permit may be renewed for an additional year upon receipt of Bureau approval and sixty-five dollars (\$65) renewal fee. (3-26-08)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.05 - RULES GOVERNING EXAMINATIONS

DOCKET NO. 07-0105-0801

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 54-1003, 54-1005, and 54-1006, Idaho Code.

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

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2008 Idaho Administrative Bulletin, Vol. 08-7, pages 22 and 23.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 28th day of July 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

DOCKET NO. 07-0105-0801 - 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 08-7, July 2, 2008, pages 22 and 23.

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 07 - DIVISION OF BUILDING SAFETY

07.02.03 - RULES GOVERNING PERMIT FEE SCHEDULE

DOCKET NO. 07-0203-0801 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2605(1) and 54-2623, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

Contractors feel the fee schedule applicable to new residential dwellings for large homes (homes over 4,500 square feet) is too complicated. Additionally, the basis of the permit fee schedule as square footage of living space only is not clearly stated for all sizes of single family dwellings. This rule change would simplify the calculation of permit fees for larger homes (homes over 4,500 square feet) to include a base fee plus additional fees for every 1,000 feet of square footage beyond 4,500 square feet (or a portion thereof). It also clarifies for the entire fee schedule that the square footage basis for the permits includes living space only.

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

This temporary rulemaking is necessary to confer a benefit to affected Plumbing contractors, general contractors, and property owners doing their own plumbing installations by simplifying the calculation of permit fees for larger homes.

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

This proposed rule would simplify the calculation of permit fees for plumbing inspections of larger residences.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 16th day of July, 2008.

Steve Keys, Deputy Administrator - Operations
 Division of Building Safety
 1090 E. Watertower St.
 Meridian, ID 83642
 Phone: (208) 332-8986
 Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0203-0801

011. FEE SCHEDULE.

01. New Residential - Single Family Dwelling. Includes all buildings with plumbing systems being constructed on each property.

New Residential - Single-Family Dwelling	
Up to 1,500 Square feet of construction living space	- \$130
1,501 to 2,500 Square feet of construction living space	- \$195
2,501 to 3,500 Square feet of construction living space	- \$260
3,501 to 4,500 Square feet of construction living space	- \$325
Over 4,500 Square feet of construction living space	- Use Subsection 011.04, Other Installations Including Industrial and Commercial \$325 plus \$65 for each additional 1,000 square feet or portion thereof

~~(3-26-08)~~(7-1-08)T

02. New Residential - Multi-Family Dwellings.

New Residential - Multi-Family Dwellings	
Duplex Apartment	- \$260
Three (3) or more Multi-family Units	- \$130 per Building plus \$65 per Unit

(3-26-08)

03. Existing Residential. Sixty-five dollars (\$65) plus ten dollars (\$10) for each additional plumbing fixture being installed up to a maximum of the corresponding square footage of the residential building. (3-26-08)

04. Other Installations Including Industrial and Commercial. The inspection fees listed in this Section shall apply to any and all plumbing installations not specifically mentioned elsewhere in this schedule. The plumbing cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all plumbing equipment and materials installed as part of the plumbing system. (3-26-08)

a. Plumbing system cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of the total plumbing system cost. (3-26-08)

b. Plumbing system cost over ten thousand dollars (\$10,000), but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of the plumbing system cost exceeding ten thousand dollars (\$10,000). (3-26-08)

c. Plumbing system cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one half of one percent (.5%) of the plumbing system cost exceeding one hundred thousand dollars (\$100,000). (3-26-08)

d. All fees calculated under this schedule must be calculated on the total plumbing cost of the job and this figure must be shown on the permit. (3-26-08)

05. Requested Inspections. A fee of sixty-five dollars (\$65) per hour or portion of an hour shall apply, with the requesting party responsible for all costs incurred in out-of-state travel. (3-26-08)

06. Additional Fees and Re-Inspection Fees. A fee of sixty-five dollars (\$65) per hour or portion of an hour shall apply to:

a. Trips to inspect when: (3-26-08)

i. The submitter of the permit has given notice to the Division of Building Safety that the work is ready for inspection and it is not; or (3-26-08)

ii. If the submitter has not accurately identified the work location; or (3-26-08)

iii. If the inspector cannot gain access to make the inspection. (3-26-08)

b. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. (3-26-08)

c. Each trip necessary to remove a red tag from the jobsite. (3-26-08)

d. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)

e. No permit - failure to post or send permit and required fee in the prescribed time will, at the discretion of the Division, result in the assessment of a double fee. (3-26-08)

07. Plan Checking Fee. Sixty-five dollars (\$65) per hour or portion thereof. (3-26-08)

08. Mobile Homes. Each connection or re-connection to existing sewer and water stubs shall be sixty-five dollars (\$65). (3-26-08)

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

10. Residential. Lawn sprinklers shall be sixty-five dollars (\$65). (3-26-08)

- 11. Water Conditioners.** Water conditioners shall be sixty-five dollars (\$65). (3-26-08)
- 12. Sewer and Water Permit Fees.** Residential sewer and water service line fees shall apply to all new construction, installations, and replacements. (3-30-06)
- a.** Sewer and water permit fees for excavators or property owners shall be assessed at the same rate as residential or nonresidential based on the classification of the construction project. (3-30-06)
- b.** Residential sewer and water service lines installation permit fees will be assessed at the rate of thirty-eight dollars (\$38) each or sixty-five dollars (\$65) for a combination of both if only one (1) inspection is required and the work is done by the same individual. (3-26-08)
- 13. Non-residential.** Lawn sprinkler permit fees shall be calculated at the same rate as industrial and commercial plumbing installations. (3-26-08)
- 14. Nonresidential Sewer and Water Service Lines Permit Fees.** If installed by someone other than the plumbing contractor of the building, fees shall be calculated at the same rate as industrial and commercial plumbing installations. (3-26-08)
- 15. Technical Service Fee.** Sixty-five dollars (\$65) per hour for each hour or portion thereof. (3-26-08)
- 16. Multipurpose Residential Fire Sprinkler and Domestic Water Supply System Fee.** The inspection fee for the installation of the fire sprinkler portion of a multipurpose residential fire sprinkler and domestic water supply system in a one (1)-family or two (2)-family residence shall be a minimum of sixty-five dollars (\$65) or four dollars (\$4) per fire sprinkler head, whichever is greater. (3-26-08)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE
DOCKET NO. 07-0206-0801
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2606, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The Uniform Plumbing Code only expressly addresses standard water-flush urinals. The Idaho Plumbing Board has determined that technology has advanced to the point where "nonwater urinals" using chemicals are an acceptable alternative, thereby conserving substantial quantities of water. This rulemaking provides an amendment to the Uniform Plumbing Code authorizing the use of nonwater urinals where appropriate and authorizes the installation and use of nonwater urinals under certain conditions and requirements. The rulemaking also requires the installation of a standard water distribution line for the urinal location in the event of a future retrofit.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 11th day of July, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0206-0801

011. ADOPTION AND INCORPORATION BY REFERENCE OF THE 2003 UNIFORM PLUMBING CODE.

The 2003 Uniform Plumbing Code, including Appendices “A, B, D, E, G, H, I, J, and L,” (herein U.P.C.) is adopted and incorporated by reference with the following amendments. The 2003 Uniform Plumbing Code is available at the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814. (4-6-05)

01. Section 218. Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. (3-15-02)

02. Section 316.1.6. PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. (4-6-05)

03. Section 402.3.1. Nonwater Urinals. Where nonwater urinals are installed they shall be listed and comply with the applicable standards referenced in Table 14-1. Nonwater urinals shall have a barrier liquid sealant to maintain a trap seal. Nonwater urinals shall permit the unimpeded flow of waste through the urinal to the sanitary drainage system. Nonwater urinals shall be cleaned and maintained in accordance with the manufacturer’s instructions. Where nonwater urinals are installed they shall have a water distribution line rough-in to the urinal location to allow for the installation of an approved backflow prevention device in the event of a retrofit. ()

034. Section 420.0. Pressure balance or thermostatic mixing valves are not required for high flow (over eight (8) g.p.m.) tub filler valves with hand shower sets attached. (3-15-02)

045. Section 421.0. Delete. (4-6-05)

056. Section 604.1. Materials. Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM – F876/F877 and tested, approved, and listed to ANSI/NSF 14 and 61, for potable water along with all applicable installation standards may be used for hot and cold water distribution systems within a building or cold water distribution systems outside of a building. Listed PE (polyethylene) water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings shall be used. (4-6-05)

067. Section 609.4. Testing. Deleting the phrase “Except for plastic piping,” at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer’s installation standards. (4-6-05)

078. Section 609.10. Water hammer. Does not apply to residential construction. (7-1-98)

089. Table 6-4 and Table A-2. Change fixture unit loading value for bathtub or combination bath/shower, and clotheswashers to two (2) fixture units. (3-15-02)

109. Section 610.2. All new one (1) and two (2) family residences must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. (3-30-07)

101. Section 611.4. Sizing of Residential Softeners. Amend Footnote 3 to read: Over four (4) bathroom groups, softeners shall be sized according to the manufacturer’s standards. (4-6-05)

142. Table 7-3. Maximum unit loading and maximum length of drainage and vent piping. (EXCEPTION) The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines (ref: Section 717.0). Change fixture unit loading value for clotheswashers, domestic to two (2) fixture units. (3-15-02)

123. Section 703.1 - Underground Drainage and Vent Piping. No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar shall be less than two (2) inches in diameter. (3-15-02)

134. Section 703.2 and 710.5. Add Exception. In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. (3-15-02)

145. Section 704.2. Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. (4-6-05)

156. Section 704.3. Delete. (5-3-03)

167. Table 7-5. Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (7-1-98)

178. Section 707.4 Cleanouts. A full-sized accessible cleanout shall be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer (ref.: Section 719.1). Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. (3-15-02)

189. Section 712.1. In the first sentence, delete the phrase "except that plastic pipe shall not be tested with air." (4-6-05)

192. Section 801.2.3. Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm). (5-3-03)

201. Section 801.4. Drains. Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths (3/4) inch minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths (3/4) inch. (3-30-07)

212. Section 807.4. A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. (3-15-02)

223. Section 906.1. Delete the existing provision and replace with the following: (4-2-08)

a. Roof venting. When conventional roof venting is utilized, each vent pipe or stack shall extend through its flashing and shall terminate vertically not less than six (6) inches (one hundred fifty-two (152) mm) above the roof nor less than one (1) foot (three hundred five (305) mm) from any vertical surface. (4-2-08)

b. Sidewall venting. When sidewall venting is utilized, the vent shall extend flush with the eaves/gable end, shall turn down using a ninety (90) degree ell, and shall terminate as close to the roof peak as possible. The vent end must be properly screened. Sidewall venting is acceptable on new or remodel construction on cabins, log homes, and residential or commercial buildings. (4-2-08)

c. Sidewall venting must meet the intent of Section 906.2 of the UPC. (4-2-08)

234. Section 908. Exception - Vertical Wet Venting. A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 of the UPC are met. (7-1-98)

245. Section 909.0. Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). (4-2-08)

a. An A.A.V. may be used only in residential buildings. (4-2-08)

b. In remodels, an A.A.V. may be used with island fixtures or remotely located sinks such as in bar, kitchen, or laundry tray locations. An A.A.V. shall not be used in bathroom groups. (4-2-08)

- c.** In new construction, an A.A.V. may be used on island fixture sinks. (4-2-08)
 - d.** Each A.A.V. may be used to vent only one (1) floor. (4-2-08)
 - e.** Each A.A.V. must be readily accessible. (4-2-08)
 - f.** The cross-sectional area of venting must remain the same and must meet the largest required building drain. (4-2-08)
 - g.** An A.A.V. shall only be installed in accordance with the manufacturer's installation standards as per ASSE 1051. (4-2-08)
 - h.** An A.A.V. may not be used in an attic, crawl space, outside installation, or in connection with chemical or acid waste systems. (4-2-08)
- 256. Section 1002.3.** Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. (3-15-02)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0802 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-4004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

Current revenues are insufficient to support the ongoing inspection process for the HUD manufactured housing program. The program is currently drawing on fund balances to support its operation. Fee changes are necessary to generate sufficient revenue to support the ongoing program. Fees have not been increased since 1990.

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

The per floor inspection fee would increase to \$45 per floor from the current \$26 per floor fee. The hourly fee for hourly inspections would increase from \$36 to \$70.

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

The fee increase would increase revenues by approximately \$65,000 per year.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed fee rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 16th day of July, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-0802

036. MANUFACTURED HOMES.

01. Construction and Safety Standards. Effective June 15, 1976, the latest published edition of the Federal Manufactured Home Construction and Safety Standards and Manufactured Home Procedural and Enforcement Regulations shall be in effect for all manufactured homes manufactured within the state of Idaho, and for all new manufactured homes for sale within the state of Idaho. All new manufactured homes offered for sale within Idaho after the effective date of this section shall bear the Housing and Urban Development (H.U.D.) label as authorized in the Federal Manufactured Home procedural and enforcement regulations. Mobile homes manufactured between March 8, 1971 and June 15, 1976 offered for rent, lease, or sale within Idaho shall bear an Idaho insignia of approval. (3-30-06)

02. Inspections. (3-30-06)

a. Special Inspection. Whenever there is a transit damage or any alteration made to a certified manufactured home, or both, a special inspection shall be required of any person offering for rent, lease, or sale said manufactured home. The purpose of the inspection is to insure that the repairs or alteration, or both, do not result in the failure of the manufactured home to comply with the standards. (3-30-06)

b. Installation Inspection. Installation inspections shall be conducted by local jurisdictions in accordance with Title 44, Chapter 22, Idaho Code and the state adopted Idaho Manufactured Home Installation Standard as incorporated by reference in IDAPA 07.03.12, "Rules Governing Manufactured Home Installations," Section 004. (3-30-06)

03. Fees. (3-30-06)

a. Payment of Fees. Fees shall be paid to and collected by the Division. (3-30-06)

b. In-Plant Inspections. The charge for routine in-plant inspections shall be equal to the latest fees approved by the Department of Housing and Urban Development-Office of Manufactured Home Standards: ~~Twenty-six~~ Forty-five dollars (~~\$26~~45) per floor. (~~3-30-06~~)()

c. Other Inspections. For all inspections other than routine whether they be in-plant or in the field (for models produced after June 15, 1976): ~~Thirty-six~~ Seventy dollars (~~\$36~~70) per hour minimum for inspection and travel time, pro-rated to the nearest quarter hour, per diem and lodging where applicable, plus the current state rate for mileage, as approved by the State Board of Examiners and listed in the Idaho State Travel Policies and Procedures, Appendix "A," based on the round-trip distance from point of inspection and the inspector's office location. (~~3-30-06~~)()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.04.02 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

DOCKET NO. 07-0402-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-8605, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

This rule proposal corrects an incorrect description of an ANSI/ASME Standard. The correct title of the code is "Elevator and Escalator Electrical Equipment." The proposed rule corrects the title of referenced ANSI/ASME Standard A17.5

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 10th day of July, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0402-0801

004. ADOPTION AND INCORPORATION BY REFERENCE.

01. Documents. The following codes, amendments, and updates are hereby adopted and incorporated by reference into these rules for all conveyances subject to this chapter. (4-2-08)

a. ANSI/ASME A17.1 2004, Safety Code for Elevators and Escalators with 2005 Addenda and 2005 Supplement. (4-2-08)

b. ANSI/ASME A17.2 2004 Guide for Inspection of Elevators, Escalators, and Moving Walks. (4-2-08)

c. ANSI/ASME A17.3 2005 Safety Code for Existing Elevators and Escalators. (4-2-08)

d. ANSI/ASME A17.4 1999 Guide for Emergency Personnel. (4-2-08)

e. ANSI/ASME A17.5 2005~~4~~ ~~Safety Standards for Platform Lifts and Chairlifts~~ Elevator and Escalator Electrical Equipment. ~~(4-2-08)~~()

f. ICC/ANSI A117.1 2003 Accessible and Usable Buildings and Facilities. (4-2-08)

g. ANSI/ASME A18.1 2005 Safety Standards for Platform Lifts and Chairlifts. (4-2-08)

h. ASME QE-1 2004 Standard for the Qualification of Elevator Inspectors. (4-2-08)

02. Copies. Copies of the codes, amendments, and updates listed in Subsection 004.01 of these rules are available for review at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. (4-2-08)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.04.02 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

DOCKET NO. 07-0402-0802 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-8605 and 39-8616, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The rule change is necessary to establish by rule, pursuant to Sections 39-8605 and 39-8616, Idaho Code, the fees for reinspection of various types of conveyances including elevators, escalators, and lifts. The current fee schedule is established by Section 39-8616, Idaho Code, and pursuant to that statute reductions in fee amounts must be achieved through rules. Currently, the fees exceed the costs associated with a typical reinspection and are not reflective of the actual cost of providing the associated service.

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

This rule will reduce the fee for reinspections of elevators, escalators, and lifts to a flat fee thereby ensuring the safety of such conveyances through the reinspection process.

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

The current fee schedule is established by Section 39-8616, Idaho Code. This rule will reduce the fee for reinspections of elevators, escalators, and lifts from \$500 or \$250 to a flat fee of \$100 thereby ensuring the safety of such conveyances through the reinspection process.

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 would likely be no resulting change in revenues, as the current reinspection fees are seldom assessed due to the excessive fees associated with same.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator – Operations, (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 10th day of July 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0402-0802

011. INSPECTION REQUIREMENTS.

~~Before~~ In order that a required inspection may take place:

~~(4-6-05)~~(7-1-08)T

01. Access. All machine rooms and spaces shall be free of dirt and debris and any obstacles to access must be removed. (4-6-05)

02. Technician on Site. An elevator technician and fire alarm technician must be present on site to restore elevator and fire alarm systems. (4-6-05)

03. Installation. The elevator installation must be complete and safe for inspection. (4-6-05)

04. Inspection Fees. Inspection fees for elevators shall be assessed and collected according to the schedule listed in Section 39-8616, Idaho Code, except that reinspection fees for all types of conveyances shall be one hundred dollars (\$100) for the first hour of inspection, or portion thereof, and one hundred dollars (\$100) for each hour of inspection thereafter. (7-1-08)T

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.05.01 - RULES OF THE PUBLIC CONTRACTORS LICENSE BOARD
DOCKET NO. 07-0501-0801 (FEE RULE)
NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1904 and 54-1907, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change: The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2008 Idaho Administrative Bulletin, Vol. 08-7, pages 24 through 26.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This fee or charge is being imposed pursuant to Section 54-1907, Idaho Code. The rulemaking sets a fee of five hundred fifty dollars (\$550) for a Class Unlimited license.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Since licensing fees for the Division of Building Safety are dedicated funds, there will be no impact on the General Fund. Because it is anticipated that few contractors will apply for the "unlimited" class license, the fiscal impact on the dedicated funds should be negligible.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 28th day of July 2008.

Steve Keys
Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

DOCKET NO. 07-0501-0801 - ADOPTION OF PENDING FEE 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 08-7, July 2, 2008, pages 24 through 26.

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 07 - DIVISION OF BUILDING SAFETY

07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0701-0801 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5005(1) and (2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

Contractors feel the fee schedule applicable to new residential dwellings for large homes (homes over 4,500 square feet) is too complicated. Additionally, the basis of the permit fee schedule as square footage of living space only is not clearly stated for all sizes of single family dwellings. This rule change would simplify the calculation of permit fees for larger homes (homes over 4,500 square feet) to include a base fee plus additional fees for every 1,000 feet of square footage beyond 4,500 square feet (or a portion thereof). It also clarifies for the entire fee schedule that the square footage basis for the permits includes living space only.

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

This temporary rulemaking is necessary to confer a benefit to affected HVAC contractors, general contractors, and property owners doing their own HVAC installations by simplifying the calculation of permit fees for larger homes.

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

This proposed rule would simplify the calculation of permit fees for heating, ventilation, and air conditioning systems (HVAC) inspections of larger residences.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 16th day of July, 2008.

Steve Keys, Deputy Administrator - Operations
 Division of Building Safety
 1090 E. Watertower St.
 Meridian, ID 83642
 Phone: (208) 332-8986
 Fax: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-0801

051. FEES FOR HVAC INSPECTIONS.

HVAC inspection fees are to cover the cost of HVAC inspections as provided by Section 54-5017, Idaho Code; any person, partnership, company, firm, association, or corporation making an HVAC installation shall pay to the Division of Building Safety an inspection fee as provided in the following schedule: (3-26-08)

01. New Residential - Single-Family Dwelling. Includes all buildings with HVAC systems being constructed on each property.

New Residential - Single-Family Dwelling	
Up to 1,500 Square feet of construction living space	- \$130 (asterisk removed)
1,501 to 2,500 Square feet of construction living space	- \$19 (asterisk removed)
2,501 to 3,500 Square feet of construction living space	- \$260 (asterisk removed)
3,501 to 4,500 Square feet of construction living space	- \$325 (asterisk removed)
Over 4,500 Square feet of construction living space	- Use Subsection 051.04, Other Installations Including Industrial and Commercial \$325 plus \$65 for each additional 1,000 square feet or portion thereof
* Fee is to include maximum of two (2) inspections up to 1,500 square feet, three (3) inspections 1,501 to 2,500 square feet, four (4) inspections 2,501 to 3,500 square feet, and five (5) inspections 3,501 to 4,500 square feet. Additional inspections charged at requested HVAC inspection rate of sixty five dollars (\$65) per hour.	

~~(3-26-08)~~(7-1-08)T

02. New Residential - Multi-Family Dwellings.

New Residential - Multi-Family Dwellings	
Duplex Apartment	- \$260
Three (3) or more multi-family units	- \$130 per Building plus \$65 per Unit

(3-26-08)

03. Existing Residential. Sixty-five dollars (\$65) plus ten dollars (\$10) for each additional piece of HVAC equipment being installed up to a maximum of the corresponding square footage of the residential building. (3-26-08)

04. Other Installations Including Industrial and Commercial. The inspection fees listed in this Section shall apply to any and all HVAC installations not specifically mentioned elsewhere in this schedule. The HVAC cost shall be the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all HVAC equipment and materials installed as part of the HVAC system. (3-26-08)

a. HVAC system cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of the total HVAC system cost. (3-26-08)

b. HVAC system cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of the HVAC system cost exceeding ten thousand dollars (\$10,000). (3-26-08)

c. HVAC system cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one half of one percent (.5%) of the HVAC system cost exceeding one hundred thousand dollars (\$100,000). (3-26-08)

d. All fees calculated under this schedule must be calculated on the total HVAC cost of the job, and this figure must be shown on the permit. (3-26-08)

05. Requested Inspections A fee of sixty-five dollars (\$65) per hour or portion of an hour shall apply, with the requesting party responsible for all costs incurred in out-of-state travel. (3-26-08)

06. Additional Fees and Re-Inspection Fees. A fee of sixty-five dollars (\$65) per hour or portion of an hour shall apply to: (3-26-08)

a. Trips to inspect when the submitter of the permit had given notice to the Division of Building Safety that the work is ready for inspection and it is not, if the submitter has not accurately identified the work location, or if the inspector cannot gain access to make the inspection. (3-26-08)

b. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. (3-26-08)

c. Each trip necessary to remove a red tag from the jobsite. (3-26-08)

d. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)

e. No permit - failure to post or send permit and required fee in the prescribed time will, at the discretion of the Division, result in the assessment of a double fee. (3-26-08)

07. Plan Check Fee. Sixty-five dollars (\$65) per hour or portion thereof. (3-26-08)

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - RULES GOVERNING MOTOR VEHICLES - GENERAL RULES

DOCKET NO. 11-0701-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-2901 and 49-901, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rulemaking removes unnecessary and conflicting language regarding formal declaratory orders.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge is imposed or increase.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking removes previously existing erroneous language; it does not create a new guideline or regulation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bill Reese, (208) 884-7220 or william.reese@isp.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 4th day of August, 2008.

Colonel G. Jerry Russell, Director
Idaho State Police
700 S. Stratford Drive Meridian, ID 83643
(208) 884-7003 / (208) 884-7090

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0701-0801

002. WRITTEN INTERPRETATIONS (RULE 2).

The Director of the Idaho State Police is authorized to make and give informal interpretations of the terms and definitions found in the Idaho Code, this Department's rules applicable to motor vehicles and other filings relating to motor vehicles maintained by the Department pursuant to law. The Director may be contacted in writing at the Idaho State Police, PO Box 700, Meridian, Idaho 83680-0700, or may be reached by telephone at (208) 884-7200. ~~For future rulemakings written interpretations in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. The Department reserves to itself the authority to issue formal declaratory orders construing these items.~~

(4-2-08)(____)

IDAPA 11 - IDAHO STATE POLICE

11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-0801

NOTICE OF RULEMAKING - PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

Eliminates the requirement that Correction Officers must demonstrate the ability to distinguish primary colors.

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

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

This rulemaking does not impact the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the affected party drafted the rule and submitted it to POST Council for approval.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 14th day of July, 2008.

Jeffrey J. Black
Executive Director
Idaho State Police
Peace Officer Standards and Training Council
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
Phone: (208) 884-7251
Fax: (208) 884-7295

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1104-0801

039. PHYSICAL -- MEDICAL.

01. Requirements. (4-11-06)

a. Hearing. The applicant must have unaided or aided hearing between zero (0) and thirty (30) decibels for each ear at the frequencies of one thousand (1000) Hz and two thousand (2000) Hz; and unaided or aided hearing between zero (0) and fifty (50) decibels for each ear at the frequency of three thousand (3000) Hz. Waiver of the above may be considered if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. If the applicant's unaided or aided hearing at one thousand (1000) Hz and two thousand (2000) Hz is between thirty-one (31) and forty (40) decibels, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director shall have the discretion to refer the application to the POST Council. If the applicant's unaided or aided hearing at one thousand (1000) Hz and two thousand (2000) Hz is over forty (40) decibels or if the applicant's unaided or aided hearing at three thousand (3000) Hz is over fifty (50) decibels, the POST Council shall review the application and determine whether the individual shall be certifiable as a correction officer in the state of Idaho. (4-2-08)

b. Vision. (~~4-11-06~~)

~~i. The applicant must demonstrate to a vision specialist the ability to distinguish primary colors. (4-11-06)~~

~~ii.~~ The applicant must have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must have the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination must be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the Council if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. (~~4-2-08~~)()

c. Disease/Condition. The applicant must be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of Section 039 may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a correction officer. (4-2-08)

d. Physical Agility. The applicant must pass the POST Physical Agility Test for Correction Officers. (4-11-06)

02. Procedures. (4-11-06)

a. A POST Council-approved medical history form must be supplied by each applicant to the examining physician. The medical history must include information on past and present diseases, injuries and operations. (4-11-06)

b. A medical examination must be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a correction officer. The physician must record his findings on the appropriate form or letter and must note thereon, for evaluation by the appointing authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year. (4-2-08)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES

DOCKET NO. 16-0303-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. 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 32-1214G and 56-203A, Idaho Code and mandated by the Federal Deficit Reduction Act (DRA) of 2005.

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 June 4, 2008, Idaho Administrative Bulletin, Vol. 08-6, pages 56 through 58.

FEE SUMMARY: This fee or charge is being imposed pursuant to Section 56-203A, Idaho Code. The following is a specific description of the fee or charge imposed or increased: This rulemaking imposes a new \$25 dollar annual fee upon the non-custodial parent paying "enforced" child support payments. The Federal Budget Deficit Reduction Act of 2005 mandates that this fee be imposed in each child support case in which an individual has never received assistance under a program funded by the Temporary Assistance for Needy Families (TANF) program (Title IV-A of the Social Security Act) and where the state has collected more than \$500 in child support during the Federal Fiscal Year (FFY). Despite the fact that the federal law requiring this fee was passed during the 2005 Federal Legislative Session, the proposed federal regulation governing the application and imposition of this fee was not published until January 24, 2007.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: The projected fiscal impact for SFY 2009 is \$399,674 general fund dollars, which will be required in order to advance the payment of the federal share of the fee on cases which qualify for the fee, but on which collections cannot be applied to the fee due to existing case arrearages and inability to collect. (Not included in this fiscal impact statement is the total cost to the Department for system modification of \$192,960. Of this total, \$86,746 is the Child Support Program's responsibility.)

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kandace Yearsley at (208) 334-0620.

DATED this 3rd day of July, 2008.

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

P.O. Box 83720, Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
email: kovachs@dhw.idaho.gov

DOCKET NO. 16-0303-0801 - ADOPTION OF PENDING FEE 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 08-6, June 4, 2008, pages 56 through 58.

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
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-203, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the Wednesday, June 4, 2008, Idaho Administrative Bulletin, Vol. 08-6, pages 59 through 62.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rosie Andueza (208) 334-5553.

DATED this 1st day of July, 2008.

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

DOCKET NO. 16-0304-0801 - 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 08-6, June 4, 2008, pages 59 through 62.

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

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

DOCKET NO. 16-0308-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 45 CFR Parts 260-265.

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 Wednesday, June 4, 2008, Idaho Administrative Bulletin, Vol. 08-6, pages 63 through 65.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner (208) 334-5656.

DATED this 1st day of July, 2008.

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

DOCKET NO. 16-0308-0801 - 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 08-6, June 4, 2008, pages 63 through 65.

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
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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

Wednesday - September 10, 2008 - 1:30 p.m.

DEPARTMENT OF HEALTH & WELFARE
Pete T. Cenarrusa Building - Rm. 7-A
450 West State Street
Boise, ID

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

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

To better assure the health and safety of children under the Department's care and authority, these rules are being revised to reflect current policy and practices in child care licensing standards for child care agencies and facilities. Changes are being made to address a variety of needs including:

1. Aligning rules with the Children's Behavioral Health rules;
2. Removal of obsolete and unenforceable language and using plain language guidelines;
3. Updating rules to reflect current standards for child health and safety trends and best practices for: client, staff, and financial records; service plans; safety for building, fire and hazardous toxins; strip searches and non-violent physical intervention and mechanical restraint; continued care and transitional living; transportation; and outdoor therapeutic program and expeditions; and
4. Addition of enforcement language to ensure processes provide protection for the health and safety of children in the care of organizations licensed by the Department.

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

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

This rulemaking has no anticipated fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted.

The Notice of Negotiated Rulemaking was published in the June 4, 2008, Idaho Administrative Bulletin, Vol.08-6, page 66.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brent Porges at (208) 334-5920.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 5th day of August, 2008.

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

THE FOLLOWING IS THE TEXT FOR DOCKET NO. 16-0602-0801

000. LEGAL AUTHORITY.

~~Pursuant to~~ Under Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code, the Idaho Legislature ~~has granted authority to~~ authorizes the Department and Board of Health and Welfare to adopt and enforce rules governing standards for licensure or certification of foster homes, children's agencies and children's residential care facilities in Idaho. (3-30-07)(____)

001. TITLE ~~AND~~, SCOPE, AND POLICY.

01. Title. ~~These rules are to be cited in full as the Idaho Department of Health and Welfare Rules, The title of this chapter of rules is~~ IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-30-01)(____)

02. Scope. These rules ~~contained in this Chapter~~ establish standards and procedures for the licensure or certification of foster homes, children's agencies, and children's residential care facilities, including non-accredited residential schools, children's camps providing child care in Idaho. These standards apply for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, children's therapeutic outdoor programs, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors, day care centers and group day care facilities. Also included are standards and procedures for voluntary compliance for licensing of group day care facilities and family day care homes. (5-3-03)(____)

03. Policy. It is the policy of the Department to assure that children of this state receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is based on the fact that children are vulnerable and not capable of protecting themselves. When parents, for any reason have relinquished their children's care to others, there arises the possibility of certain risks to those children's lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration. (____)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by the provisions of, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)(____)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference in this chapter of rules. ()

~~rules;~~ **01. Idaho Statutes.** *The following are the Idaho Statutes incorporated by reference in this chapter of* ()
rules; ~~(3-30-01)~~()

a. Accreditation of Secondary Schools - Standards for elementary schools, Section 33-119, Idaho Code. (3-30-01)

b. Adoption Statutes. Sections 16-1501 through 16-1512, Idaho Code. (3-30-01)

c. Child Labor Laws. Sections 44-1301 through 44-1308, Idaho Code. (3-30-01)

d. Termination of Parental Rights. Sections 16-2001 through 16-2015, Idaho Code. (3-30-01)

e. Residential Schools. Section 39-1207, Idaho Code. (3-30-01)

02. Uniform Fire Code. The Uniform Fire Code as outlined by Section 41-253, Idaho Code. The addition for the year prior to the issuance of the license will be used. Published by Western Fire Chiefs Association and International Conference of Building Officials. A copy is available at any Idaho State Library. (3-30-07)

03. Uniform Building Code. The Uniform Building Codes as outlined in Section 39-4109, Idaho Code. The addition for the year prior to the issuance of the license will be used. Published by International Conference of Building Officials. A copy is available at any public library in Idaho. (3-30-07)

04. Federal Laws and Regulations. (3-30-07)

a. Immigration and Naturalization Service, Title 8 CFR 204.3.c INA 101.b F1994. (3-30-01)

b. Indian Child Welfare Act, PL 95-608, 25 USC, Sections 1901 - 1963. ~~(3-30-01)~~()

c. Multiethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622. ~~(3-30-07)~~()

05. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. (3-30-01)

06. Crib Safety. Consumer Product Safety Commission, Crib Safety Tips can be found on the Internet at, <http://www.cpsc.gov/cpscpub/pubs/cribs.html>. (3-30-01)

07. National Research Council. National Research Council, Internet address, www.nas.edu/nrc. National Academy of Sciences, 2101 Constitution Ave., N.W., Washington, DC 20418. (3-30-01)

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-11-06)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (4-11-06)

06. Licensing Authority Location. The Department's child care licensing authority for children's residential treatment facilities, children's agencies, and children's outdoor therapeutic programs is located at 450 West State Street, Boise, Idaho 83702; Phone (208) 334-5700. ()

(BREAK IN CONTINUITY OF SECTIONS)

~~007. POLICY.~~

~~It is hereby declared to be the policy of this state to insure that children of this state shall receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty four (24) hour long term care for their children. This policy is predicated upon the fact that children are vulnerable, not capable of protecting themselves, and when their parents for any reason have relinquished their care to others, there arises the possibility of certain risks to the children's lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration.~~ (3-30-01)

~~007. -- 008. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS A THROUGH M.

For the purposes of these rules ~~contained in this Chapter~~, the following terms ~~are used as defined below:~~ apply. (3-30-01)()

01. Accredited Residential School. A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. (3-30-01)

02. Alcohol-Drug Abuse Treatment Facility. A children's residential care facility specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse. (3-30-01)

03. Board. The Idaho State Board of Health and Welfare. (3-30-01)

04. Chief Administrator. The duly authorized representative of an organization responsible for day-to-day operations, management and compliance with these rules and Title 39, Chapter 12, Idaho Code. ()

~~045. Child.~~ An individual less than eighteen (18) years of age, synonymous with juvenile or minor. (3-30-01)

~~056. Child Care.~~ The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as ~~an alternative to~~ substitute parental care. (3-30-01)()

~~067. Children's Agency.~~ A person who operates a business for the placement of children in foster homes, children's residential care facilities or for adoption in a permanent home and who does not provide child care as part of that business. A children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. (3-30-01)

078. Children's Camp. A program of child care at a location away from the child's home, which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children's camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period ~~shall be~~ is exempt from the licensure and disclosure provisions of this chapter. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period ~~shall~~ constitutes a children's residential care facility.

~~(3-30-01)~~()

089. Children's Institution. A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children's institutions include foster homes, children's residential care facilities, maternity homes, or any residential facility providing treatment, therapy or rehabilitation for children, or any children's therapeutic outdoor program.

(5-3-03)

0910. Children's Residential Care Facility. A facility that provides residential child care, excluding foster homes, residential schools, juvenile detention centers and children's camps that:

(3-30-01)

a. Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision;

(3-30-01)

b. Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or

(3-30-01)

c. Represents to the payor of the child care services provided by the children's facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services; and

(5-3-03)

d. May include a children's therapeutic outdoor program whether or not that program operates out of a standard facility.

(5-3-03)

101. Children's Therapeutic Outdoor Program. A program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting and serves either adjudicated or non-adjudicated youth. Children's Therapeutic Outdoor programs do not include outdoor programs for minors that are primarily designed to be educational or recreational that may include Boy Scouts, Girl Scouts, 4-H and other youth organizations.

(5-3-03)

112. Continued Care. The ongoing placement of an individual in a foster home, children's residential care facility, outdoor treatment program, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age.

~~(3-30-01)~~()

123. Contraband. Goods or merchandise, the possession of which is prohibited, such as weapons and drugs.

(3-30-01)

134. Day Care. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes.

(3-30-01)

145. Day Care Center. A place or facility providing day care for compensation for thirteen (13) or more children.

(3-30-01)

156. Department. The Idaho Department of Health and Welfare or its designee.

~~(3-30-01)~~()

167. Direct Care Staff. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements.

(3-30-01)

178. Director. Director of the Idaho Department of Health and Welfare or designee.

(3-30-01)

189. Family Day Care Home. A home, place, or facility providing day care for six (6) or fewer children during part of a twenty-four (24) hour day. (3-30-01)

~~1920.~~ **Foster Care.** The twenty-four (24) hour substitute parental care of children; in a foster home by persons who may or may not be related to a child; ~~in lieu of parental care in a foster home.~~ (~~3-30-01~~)()

201. Foster Home. The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute parental care to six (6) or fewer children. (~~3-30-01~~)()

~~212.~~ **Foster Parent.** A person or persons residing in a private home under their direct control to whom a foster care license or certification has been issued. (3-30-01)

223. Group Day Care Facility. A home, place, or facility providing day care for seven (7) to twelve (12) children. (3-30-01)

234. Inter-Country Adoption. The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)

25. Licensing Authority. The Department's child care licensing unit responsible for licensure or certification of Children's Residential Treatment Facilities, Children's Agencies, and Children's Outdoor Therapeutic Program. ()

246. Mechanical Restraint. Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)

257. Medical Professionals. Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. (3-30-01)

268. Member of the Household. Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)

011. DEFINITIONS N THROUGH Z.
For the purposes of these rules, the following terms apply. ()

~~2701.~~ **Nonaccredited Residential School.** A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. (3-30-01)

~~2802.~~ **Non-Compliance.** Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. (3-30-01)

~~2903.~~ **Organization.** A children's agency or a children's residential care facility. (3-30-01)

~~304.~~ **Person.** Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)

~~3105.~~ **Physical Intervention.** Physical restraint utilized to control the range and motion of an individual. (3-30-01)

~~3206.~~ **Placement.** The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. (3-30-01)

~~3307.~~ **Plan of Correction.** The detailed procedures and activities developed between the licensing authority and caregiver required to bring a foster family, facility, or children's agency into conformity with these licensing rules. (3-30-01)

- ~~3408.~~ **Relative.** Individuals related to a child by blood, marriage or adoption. (3-30-01)
- ~~3509.~~ **Representative.** An employee of the Department of Health and Welfare. (3-30-01)
- ~~3610.~~ **Residential School.** A residential facility for any number of children which: (3-30-01)
- a.** Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and (3-30-01)
- b.** Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and (3-30-01)
- c.** Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and (3-30-01)
- d.** Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation; and (3-30-01)
- e.** Does not represent to the payor of child care services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. (3-30-01)
- ~~3711.~~ **Restraint.** Interventions to control the range and motion of a child. (3-30-01)
- ~~3812.~~ **Seclusion.** A room within a facility designed to temporarily isolate an individual in order to gain emotional or physical control by means of structure and minimal stimulation. (3-30-01)
- ~~3913.~~ **Secure.** A physically restrictive setting, as in a locked or guarded residential facility. (3-30-01)
- ~~4014.~~ **Security Risk.** An individual who presents the possibility by actions, behavior or emotional reaction that may result in harm to self or others, or escape from physical control. (3-30-01)
15. **Service Worker.** An employee of an organization who has obtained at a minimum, a Bachelor's degree in a behavioral science, including social work, sociology, psychology, criminal justice, counseling, or a related field, whose duties may include assessment, service planning, supervision and supportive counseling. ()
- ~~416.~~ **Shelter Care.** The temporary or emergency out-of-home care of children in a foster home or residential facility. (3-30-01)
17. **Social Worker.** A social worker licensed by the state of Idaho. ()
- ~~4218.~~ **Soft Restraints.** Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. (3-30-01)
- ~~4319.~~ **Time-Out.** Separation of a child from group activity as a means of behavior management. (3-30-01)
- ~~4420.~~ **Training.** The preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a foster parent, agency and residential care facility staff or volunteers. (3-30-01)
- ~~4521.~~ **Transitional Living.** Living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation. (3-30-01)
- ~~4622.~~ **Variance.** The means of complying with the intent and purpose of a child care licensing rule in a manner acceptable to the Department other than that specifically prescribed in the rule. (~~3-30-01~~)()

~~4723.~~ **Waiver.** The non-application of a child care licensing rule, except those related to safety, extended to a relative foster home by the licensing authority which serves to promote child health, well-being, and permanence while not compromising safety. (3-30-01)(____)

~~0142.~~ -- 099. (RESERVED).

LICENSING AND CERTIFICATION

(Sections 100 Through 299)

100. LICENSING AND CERTIFICATION.

The purpose of licensing and certification is to ~~ensure insofar as possible that persons providing substitute parental care to children are~~ set minimum standards and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to ~~do so, that the care given~~ protect the health, safety and well-being of the children ~~and that the~~ in their care. ~~Physical surroundings must present no hazards to the proper care of children in~~ care. (3-30-01)(____)

01. Local Option. If a city or county, within its respective jurisdiction, has adopted and is enforcing ordinances for regulating or licensing of day care center standards services which are at least as stringent as those contained in Subsections 300.01 through Subsection 300.135 of these rules, then ~~the those~~ provisions of ~~Sections 39-1101 through 39-1117, Idaho Code, shall~~ will not apply within such city or county, unless the ordinance is subsequently repealed or is no longer enforced. (3-30-01)(____)

02. Exemptions From Licensing. ~~Pursuant to~~ Under Sections 39-1103 and 39-1211, Idaho Code, the occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily engaged in child care is exempt from licensure requirements for day care and foster homes. Foster homes which have been certified by a licensed children's agency are exempt from licensure requirements, provided the standards for approval by such agency are ~~no less restrictive than~~ at least as stringent as the rules and standards established by the Board and that such agency is maintained and operated in conformity with the rules and standards of the Board ~~pursuant to~~ under Section 39-1213(b), Idaho Code. (3-30-01)(____)

03. Responsibilities of the Foster Parent or Operator. A foster parent or operator must conform to the terms of the license or certification. In addition: (3-30-01)

a. The foster parent or operator is responsible for knowing the standards and rules applying to the type of foster home, children's residential care facility or children's agency covered by the license or certification, and for conforming to them at all times; and (3-30-01)

b. The operators of child care facilities and agencies are responsible for ensuring that all staff members are familiar with the applicable rules governing the children's residential care facility, children's therapeutic outdoor program, or children's agency. A copy of these rules are available from the Office of the Administrative Rules Coordinator, 650 W. State Street, Boise ID 83720, or on the Office of the Administrative Rules Coordinator's website, <http://adm.idaho.gov/adminrules/>; and (3-30-01)(____)

c. The foster parent or operator must immediately return his license or certification to the Department under any of the following circumstances: (3-30-01)

i. Changes of management or address; or (3-30-01)

ii. Upon suspension or revocation of the license or certification by the Department; or (3-30-01)

iii. Upon voluntary discontinuation of service. (3-30-01)

101. APPLICATIONS FOR LICENSE OR CERTIFICATION.

Applications for a license or certification are to be submitted and action is to be initiated on all applications within thirty (30) days after receipt, that addresses each requirement for the particular type of home, facility or agency.

Licensing and certification studies ~~shall will~~ follow the format of these rules and ~~shall will~~ contain a specific recommendation regarding the terms of the license or certification. All foster homes, children's agencies, children's therapeutic outdoor program, and children's residential care facilities ~~shall must~~ also comply with applicable Idaho city and county ordinances. ~~A copy of these rules are available from the Office of Administrative Rules, 650 W. State Street, Boise ID 83720, or on the state website, <http://www.idaho.gov>.~~ (3-30-01)(____)

01. Sanitation Inspection. The applicant ~~shall must~~ request and obtain a sanitation inspection and written report from the applicable Idaho Public Health District-Health Department. (3-30-01)(____)

02. Fire Inspection. The applicant ~~shall must~~ request and obtain a fire safety inspection and written report from the office of the Idaho State Fire Marshall or local fire department. (3-30-01)(____)

03. Corrective Action and Fees. The applicant ~~shall must~~ correct all deficiencies noted in the sanitation and fire reports, in order to provide documentation that the applicant has passed the inspections, and is responsible to pay any fees charged. (3-30-01)(____)

04. Planning and Zoning. The applicant must provide documentation demonstrating it meets planning and zoning requirements of the applicable Idaho city or county. (____)

102. DISPOSITION OF APPLICATIONS.

Upon receipt of ~~the~~ a completed application and study, the licensing ~~agency~~ authority will review the materials for conformity with these rules. (3-30-01)(____)

01. Approval of Application. A license or certification ~~shall will~~ be issued to any foster home, children's residential facility or children's agency found to be in conformity with these rules governing the home or facility. The license or certification ~~shall be~~ is issued according to the terms specified in the licensing or certification study and will be mailed to the applicant. (3-30-01)(____)

~~02.~~ **Regular License.** A regular license or certification will be issued to any day care or group day care, foster home, children's residential care facility, children's therapeutic outdoor program, or children's agency found to be in conformity with these rules governing the facility ~~in accordance with this Chapter~~ and will specify the terms of licensure or certification, such as: (3-30-01)(____)

~~ia.~~ Full time or day care; (3-30-01)

~~ib.~~ The number of children who may receive care at any one (1) time; and (3-30-01)

~~ic.~~ Age range and gender, if there are ~~conditions~~ in the foster home or children's residential care facility making such limitations necessary; (3-30-01)

~~id.~~ The regular license or certification for foster homes, children's agencies and twenty-four (24) hour a day child care residential facilities will be in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (3-30-01)(____)

~~ie.~~ A regular license or certification for day care and group day care ~~shall be~~ is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and (3-30-01)(____)

~~if.~~ If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. (3-30-01)

~~03.~~ **Waiver.** A regular license or certification may be issued to the foster home of a relative who has received a waiver of ~~a~~ licensing rule(s) provided: (3-30-01)(____)

~~ia.~~ The waiver is considered on an individual case basis; (3-30-01)

~~ib.~~ The waiver is approved only for ~~a~~ non-safety foster care rule(s); (3-30-01)(____)

- ~~iii.c.~~ All other licensing or certification requirements have been met; (3-30-01)
- ~~iv.d.~~ The approval of a waiver of any foster home rule(s) requires the licensing ~~agency~~ authority to document a description of the reasons for issuing a waiver, the rule(s) being waived, and assurance that the waiver will not compromise the child's safety; and (3-30-01)()
- ~~v.e.~~ The approved waiver ~~shall~~ must be reviewed for continued need and approval at regular intervals not to exceed six (6) months. (3-30-01)()
- e04. Variance.** A regular license or certification will be issued to a foster home, children's residential care facility or children's agency approved for a variance of a licensing rule(s) provided: (3-30-01)
- ~~ia.~~ The variance is considered on an individual case basis; (3-30-01)
- ~~ib.~~ The variance is approved for a non-safety licensing rule(s); (3-30-01)
- ~~ic.~~ The approval of a variance ~~shall~~ must have no adverse effect on the health, safety, and well-being of any child in care at the foster home or facility; (3-30-01)()
- ~~id.~~ The approval of a variance is documented by the licensing agency and includes a description of the reasons for issuing a variance and assurance(s) that the variance will not compromise any child's health, safety, and well-being; and (3-30-01)()
- ~~ie.~~ The approved variance ~~shall~~ must be reviewed for continued need and approval ~~at regular intervals not to exceed six (6) months~~ annually. (3-30-01)()
- #05. Provisional License or Certification.** A provisional license or certification may be issued when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety and well-being of any child in care at the home or facility. (3-30-01)
- ~~ia.~~ A provisional license or certification will be in effect for not more than six (6) months. (3-30-01)
- ~~ib.~~ Only one (1) provisional license or certification will be issued to a foster home or children's residential care facility, children's agency, or a children's therapeutic outdoor program in any twelve (12) month period of time ~~pursuant to~~ under Section 39-1216, Idaho Code, and for day care facilities defined in Section 39-1102, Idaho Code. (3-30-01)()
- e06. Limited License.** A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided that: (3-30-01)
- ~~ia.~~ The child is already in the home and has formed strong emotional ties with the foster parents; and (3-30-01)
- ~~ib.~~ It can be shown that the child's continued placement in the home would be more conducive to their welfare than would removal to another home. (3-30-01)
- 027. Denial of Application.** In the event that an application is denied, a signed letter ~~shall~~ will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. (3-30-01)()
- 08. Failure to Complete Application Process.** ()
- a.** Failure of the applicant to complete the application process within six (6) months, of the original date of application, will result in a denial of the application. ()
- b.** An applicant whose application has been denied for being incomplete, may not reapply until after

one (1) year has elapsed from the date on the denial of application. ()

(BREAK IN CONTINUITY OF SECTIONS)

105. REVISIT, RELICENSE AND RECERTIFICATION.

Revisit, re-license, and re-certification studies ~~shall~~ will document how the foster home, children's residential care facility or children's agency continues to meet the standards for licensing. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. An application for renewal of a license or certification must be made by the operator on the form furnished by the Department, and filled out prior to the expiration date of the license or certification currently in force. When such application for renewal has been made in the proper manner and form, the existing license or certification will, unless officially revoked, remain in force until the Department has acted on the application for renewal.

(3-30-01)()

106. COMPLAINTS AGAINST FOSTER HOMES, CHILDREN'S RESIDENTIAL CARE FACILITIES AND CHILDREN'S AGENCIES.

The Department ~~shall~~ will investigate complaints regarding foster homes, children's residential care facilities or children's agencies. The investigation may include further contact with the complainant, scheduled or unannounced visits to the children's residential care facility, foster home, or children's agency, collateral contacts including interviews with the victim, parents or guardian, children's residential care facility or children's agency administrator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parent(s), operator, children's residential care facility or children's agency ~~shall~~ will be informed of the investigation, and any action to be taken, including referral for civil or criminal action.

(3-30-01)()

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT OR OPERATOR.

When circumstances occur over which the foster parent or operator has no control including, ~~but not limited to,~~ illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, child care facility, children's residential care facility, children's therapeutic outdoor program, or children's agency out of conformity with Idaho law or with these rules, the license or certification must be suspended until the nonconformity is remedied.

(3-30-01)()

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license or certification may be suspended for infractions of these rules. Such suspension ~~shall~~ may lead to revocation if the foster parent or operator fails to satisfy the Director that the infractions have been corrected sufficiently to assure conformity with the rules.

(3-30-01)()

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE OR CERTIFICATION.

If, upon investigation, it is found that an applicant, foster parent, or operator has failed or refused to comply with any of the provisions of the Basic Day Care License Law, Sections 39-1101 through 39-1117, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1208 through 39-1224, Idaho Code, or with these rules, or with any provision of the license or certification, the Director may deny, suspend, revoke, or not renew a license or certification. The Department may also deny, suspend, revoke, or not renew a license or certification for any day care facility, child care facility, children's residential care facility, children's agency, children's therapeutic outdoor program, or foster home ~~if~~ when any of the following is determined:

(3-30-01)()

01. Criminal Record. Anyone providing direct care or working onsite under these rules, ~~shall participate in a Criminal History Check as set forth~~ refuses to comply with the requirements in IDAPA 16.05.06, "Criminal History and Background Checks."

(3-30-01)()

02. Other Misconduct. The applicant, foster parent, or the person proposed as chief executive officer except for day care facilities:

(3-30-01)

- a. Fails to furnish any data, statistics, records or information requested by the Department without good cause or provides false information; (3-30-01)
- b. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a children's residential care facility or children's agency; (3-30-01)
- c. Has been found guilty of or is under investigation for the commission of any felony; (3-30-01)
- d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or (3-30-01)
- e. Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the foster home, children's residential care facility, or children's agency. (~~3-30-01~~)()

110. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS.

The Department may summarily ban admissions, in whole or in part, pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the organization has achieved full compliance with all program requirements, or until a substitute remedy is imposed. ()

111. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS.

The Department may summarily suspend a foster home, children's agency, children's therapeutic outdoor program, or a children's residential care facility license and require the program to transfer residents when the Department has determined a resident's health and safety are in immediate jeopardy. ()

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF RESIDENTS.

The Department may revoke the license of a foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility when the Department determines the provider is not in compliance with these rules. Revocation and transfer of residents may occur under the following circumstances. ()

01. Endangers Health or Safety. Any condition that endangers the health or safety of any resident. ()

02. Not in Substantial Compliance. A foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility is not in substantial compliance with these rules. ()

03. No Progress to Meet Plan of Correction. A foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. ()

04. Repeat Violations. Repeat violations of any requirement of these rules or Idaho Code. ()

05. Misrepresented or Omitted Information. A foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate. ()

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility and its grounds facilities and records. ()

07. Violation of Provisional License. A children's agency, children's therapeutic outdoor program, or children's residential care facility that has violated any of the conditions of a provision license. ()

113. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the licensing authority will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal.

whichever occurred last. ()

1104. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

501. ACCESS BY DEPARTMENT AUTHORIZED AGENTS.

The Department's ~~authorized agents shall~~ representatives must be provided access to the children's agency, children's therapeutic outdoor program, or children's residential care facility and its grounds, facilities, and records for determining compliance with applicable rules and investigation of complaints against the organization. (3-30-01)()

502. COMPLIANCE REQUIRED.

Before being licensed as an organization, the applicant ~~shall~~ must comply with all applicable rules where compliance can be achieved prior to being licensed and ~~shall~~ must demonstrate intent to comply with the applicable rules where compliance can only be achieved once the program has become fully operational. (3-30-01)()

503. NOTIFICATION TO THE LICENSING AUTHORITY.

An organization ~~shall~~ must notify the ~~Department as soon as possible but no later than~~ licensing authority, as described in Section 005 of these rules, a minimum of thirty (30) days before prior to a change in the name of the organization, type of service, type of children being served, an increase in licensed capacity of a child care facility or children's residential care facility, or the organization closes, moves or changes ownership. (5-3-03)()

504. NOTIFICATION TO THE LICENSING AUTHORITY NO LATER THAN ONE WORKING DAY.

An organization ~~shall~~ must notify the ~~Department as soon as possible but~~ licensing authority, as described in Section 005 of these rules, no later than one (1) working day, if a fire in a structure housing residents requires the services of a fire company, injury to a child requires in-patient hospital treatment, or there is a change of a chief administrator of any circumstance in Subsections 504.01 through 504.04 of this rule: (3-30-01)()

01. Fire. There is a fire in a structure housing residents that requires the services of a fire company. ()

02. Injured Child. A child is injured and requires in-patient hospital treatment. ()

03. Change in Administrator. There is a change in chief administrator for the organization. ()

04. Employee Investigated. An employee is the subject of an investigation for child abuse or neglect. ()

505. UNAUTHORIZED ABSENCES.

Upon an unauthorized absence of a child in care, an organization ~~shall~~ must immediately notify the parent, guardian or placing children's agency and law enforcement. Clothing and other personal belongings ~~shall~~ must be secured immediately until the child returns or other arrangements are made, according to organization standards. (3-30-01)()

506. DEATH OF A CHILD IN CARE NOTIFICATION.

~~Upon the death of a child in care, a~~ An organization ~~shall~~ must immediately notify the parent, guardian or placing children's agency and the ~~Department~~ licensing authority upon the death of a child in care. In the event of a sudden death, or if the death occurs as a result of a crime or accident, the appropriate law enforcement agency ~~shall~~ must be contacted immediately by the organization. (3-30-01)()

507. -- 519. (RESERVED).

520. WRITTEN BYLAWS.

Except for an organization operated by a governmental entity, an organization *shall must* have written bylaws defining the board structure, philosophy and program. (3-30-01)(____)

521. GOVERNING BODY REQUIRED.

An organization *shall must* have an identifiable functioning governing body. The governing body *shall must* designate a person to function as the chief administrator of the organization, who is competent to administer the organization and *shall* delegate ~~to the chief administrator~~ the overall day to day responsibility for the administration and operation of the organization. There *shall must* be a written plan for the delegation of authority in the absence of the chief administrator. (3-30-01)(____)

522. DELINEATION OF JOB RESPONSIBILITIES.

An organization *shall must* delineate, in writing, the job responsibilities and functions of the chief administrator. The chief administrator *shall must* adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. (3-30-01)(____)

523. ORGANIZATIONAL CHART, POLICIES AND PROCEDURES.

An organization *shall must* have an organizational chart identifying the job positions, individuals in each position, and the lines of authority within the organization. ~~The organization shall develop and follow written policies and procedures governing the requirements of these rules as to staffing, records, restraints, client grievances, suicide prevention, visitation, correspondence, religion and culture, personal possessions and money, and emergencies. In addition, children's agencies shall maintain and follow policies and procedures for the foster care service it provides, behavior management, substitute care, and unusual incidents.~~ (3-30-01)(____)

524. INSURANCE COVERAGE.

An organization *shall must* secure and maintain on file copies of current motor vehicle, fire, comprehensive general liability, and professional liability insurance. (3-30-01)(____)

525. QUALITY OF SERVICES ENVIRONMENT.

An organization *shall must* carry out its licensed programs in an environment that is safe, accessible, and appropriate for the needs of those served and with due regard for the rights and protections of those persons receiving services. ~~At least annually, the organization administration shall assess compliance with the applicable rules. For each item of non-compliance, the organization shall immediately develop a plan to correct each item within six (6) months. If the Department determines that a more expeditious correction of a specific rule is needed, the Department may require it. If immediate correction is required because of imminent risk to a child, the corrective action shall be completed within twenty four (24) hours of discovery of the non-compliance. The organization shall also assess all disrupted placements and unplanned removals of children from foster homes, transitional living, adoptive homes, and children's residential care facilities and implement correction of the causes of disrupted and unplanned removals.~~ (3-30-01)(____)

01. Assess Compliance. The organization's administration must assess compliance with the applicable rules annually. (____)

02. Corrective Action for Non-Compliance. For each item of non-compliance, within thirty (30) days of notification by the licensing authority, the organization must have developed and implemented a plan approved by the licensing authority to correct each item within six (6) months. (____)

03. Expeditious Correction. The licensing authority may require a more expeditious correction when it determines there is a health and safety risk to children. Imminent risk to a child requires the corrective action be completed within twenty-four (24) hours of discovery of the non-compliance by the licensing authority. (____)

04. Assess Disrupted Placement. The organization must also assess all disrupted placements and unplanned removals of children from foster homes, transitional living, adoptive homes, children's therapeutic outdoor program, and children's residential care facilities. Corrective action must be implemented to correct causes of disrupted and unplanned removals. (____)

526. RESEARCH PROTECTIONS FOR PERSONS SERVED.

An organization *shall must* have a mechanism for reviewing and recommending approval and denial of research

proposals involving past or present persons served. When an organization or another acting on its behalf participates in research involving its clients, the organization *shall must* maintain the privacy and right of refusal of any person to participate. (3-30-01)(____)

527. CONFIDENTIALITY AND PRIVACY PROTECTIONS OF PERSONS SERVED.

An organization *shall must* have and follow written policies and procedures governing access to, use of, and release of information about a person served. The privacy of a child and his family *shall must* be protected. The identity of a child used in any form of publicity *shall must* be given only when written consent of the child's parent or guardian has been obtained prior to using or allowing to be used a child, picture of a child, or a child's name. Written consent is not required for publicity specifically used to locate an adoptive placement for a child. (3-30-01)(____)

528. DESCRIPTION OF SERVICES.

An organization *shall must* have and follow a written description of the services and fees the organization *provides charges* including those provided by the licensee or arranged through other sources. This information *shall must* be factual and available to the public. The description *shall must* include policies governing eligibility for service, age, specific characteristics, and treatment needs of children served, accommodation of cultural sensitivity, and the geographic area served. (3-30-01)(____)

529. INTAKE POLICY.

An organization *shall must* have and follow a written intake policy that sets forth the criteria for admitting children for care or services. The policy *shall must* be in keeping with the organization's purpose and services provided. Except for an emergency placement, the intake policy *shall must* include a requirement that sufficient information on each child admitted for care or services is obtained to determine that the child can be appropriately served by the organization. For an emergency placement the policy *shall must* require that the information needed to determine the appropriateness of continuing the placement or services is obtained within seven (7) days of the child's admission or placement. (3-30-01)(____)

530. CONTINUED CARE.

Continued care is permitted as defined and authorized in the Idaho Child Care Licensing Reform Act Sections 39-1201 and 39-1213, Idaho Code, for appropriate individuals eighteen (18) to twenty-one (21) years of age. (____)

01. Department or Department of Juvenile Corrections (DJC) Placed Individuals. Continued care is permitted for individuals receiving services by, through, or with the authorization of the Department or the Department of Juvenile Corrections (DJC) prior to their eighteenth birthday. (____)

02. Individuals Not Placed by Department or DJC. Individuals who are in the care of a licensed child care program prior to turning eighteen (18) years of age may remain in the program for up to ninety (90) days after their eighteenth birthday, or, until the close of the current school year for individuals attending school. (____)

531. ADDITIONAL DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.

01. Voluntary Agreement. A signed voluntary agreement to remain in the program, or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. (____)

02. Assessment for Others Safety. An assessment to assure that an individual in continued care does not jeopardize the health, safety and well being of the children in care of the organization. (____)

03. Additional Continued Care Plans. A plan that prohibits individuals in continued care from sharing a bedroom or other sleeping quarters with a child as defined in Section 010 of these rules. (____)

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual in continued care was in the care of the organization prior to eighteenth birthday. (____)

05. Documentation of Need for Continued Care. Documentation verifying the individual in continued care needs to remain in order to complete treatment, education, or other similar needs. (____)

530~~2~~. -- 534. (RESERVED).

535. SUFFICIENT FINANCIAL RESOURCES.

An organization *shall* must have sufficient financial resources to implement and deliver its programs. It *shall* must initially and annually develop and implement a plan of financing to carry out its programs, to ensure that children receive safe and appropriate care and needed services, and to ensure applicable licensing requirements are met. The plan of financing *shall* must include realistic projected income and expenditures. (3-30-01)(____)

536. ANNUAL AUDIT.

An organization *shall* ~~obtain an annual audit of the previous fiscal year's financial statements from an independent auditor and~~ must provide the ~~Department or submit to the~~ licensing authority a copy of the an annual audit, an auditor's report, along with the previous year's or a current federal tax return ~~and a copy of the current year's budget showing projected income and expenditures.~~ (3-30-01)(____)

537. -- 5443. (RESERVED).

5454. HUMAN RESOURCES NEEDED.

An organization *shall* must determine, organize and deploy the human resources needed to provide services subject to applicable rules and to promote optimum outcomes for persons served. An organization *shall* must have an adequate number of qualified administrative, supervisory, social service, direct care staff and other staff to perform the prescribed functions required by applicable rules to provide for the needs, safety, protection and supervision of children served. (3-30-01)(____)

545. SERVICE WORKER OR SOCIAL WORKER.

An organization must employ, at a minimum, one (1) service or social worker, as defined in Section 011 of these rules, for a minimum of thirty-two (32) hours per week. (____)

546. STAFF RECRUITMENT, HIRING, SUPERVISION, TRAINING, EVALUATION, PROMOTION AND DISCIPLINE.

An organization *shall* must have and follow written policies and procedures governing recruitment, screening, hiring, supervision, training, evaluation, promotion, and discipline of employees and volunteers. An organization *shall* must employ persons and use volunteers who have an understanding and respect for children and their needs, the child's family and culture; are physically and emotionally suited to provide, services to unrelated children and the problems they present; and are capable of performing activities related to their job. (3-30-01)(____)

01. Job Descriptions. An organization *shall* must have and follow written job descriptions for every position identifying necessary qualifications, including education, experience, training, duties, and lines of authority. (3-30-01)(____)

02. Personnel Records. An organization *shall* must have a personnel record for every employee and volunteer. The record *shall* must contain the following: (3-30-01)(____)

- a. Employment application; (3-30-01)
- b. Name, date of birth, current address and home phone number; (3-30-01)
- c. Documents verifying education, certification, and license when the person fills a position requiring a minimum level of education, applicable certification or license; (3-30-01)
- d. Verification of child care work history; (3-30-01)(____)
- e. Three (3) references from persons who are unrelated to the employee or volunteer. For a job applicant who has worked for an organization which provides care or services to children, one (1) of the references *shall* must be from a prior child care provider for whom the employee or volunteer worked; (3-30-01)(____)
- f. Verified documentation of a complete criminal history record check as required by Section 39-1211, Idaho Code; (3-30-01)

- g.** Verification by the employee or volunteer of receipt of the organization's behavior management policy; (3-30-01)
- h.** Copy of the current job description and verification that the employee has been provided a copy of his current job description; (3-30-01)
- i.** The date the person was employed and the date he began his current job; (3-30-01)
- j.** For staff and volunteers who transport children, a copy of a valid driver's license for the type of vehicle used while transporting children. If they use their own vehicle to transport children, the record ~~shall~~ must include proof that the vehicle is properly insured. (~~3-30-01~~)()
- k.** A performance evaluation within a probationary period and annual performance evaluations thereafter; and (3-30-01)
- l.** Documentation of any disciplinary actions. (3-30-01)

547. PERSON FILLING MORE THAN ONE POSITION.

A person filling more than one (1) position ~~shall~~ must meet the requirements for each position. (~~3-30-01~~)()

548. EMPLOYEE QUALIFICATIONS UNDER PREVIOUS RULES (RESERVED).

An employee who is qualified for a position prior to the effective date of these rules is deemed to be qualified for that position, except for an alcohol drug counselor who shall meet the new requirements in these rules. A person who takes a position as of the effective date of these rules shall meet the qualifications for that position. (3-30-01)

549. TUBERCULOSIS SCREENING.

Staff and volunteers who have contact with children for four (4) or more hours per week for two (2) or more consecutive weeks ~~shall~~ must have documentation in their personnel file that they are free from communicable tuberculosis. The screening and documentation ~~shall~~ must be ~~done~~ updated every three (3) years. (~~3-30-01~~)()

550. VOLUNTEER SUPERVISION.

A designated employee of the organization ~~shall~~ must supervise a volunteer. (~~3-30-01~~)()

551. EMPLOYEE AND VOLUNTEER ORIENTATION.

An organization ~~shall~~ must document that each new employee, contractor, and volunteer participates in an orientation that includes: the information described as follows (Subsections 551.01 through 551.04): (~~3-30-01~~)()

- 01. Organization.** The purpose of the organization. (3-30-01)
- 02. Job Function.** The policies and procedures of the organization as they relate to his job function. (3-30-01)
- 03. Job Responsibilities.** The employee's, contractor's, or volunteer's role and responsibilities; ~~and~~. (~~3-30-01~~)()
- 04. Child Abuse and Neglect Reporting.** The requirement to report suspected incidents of child abuse and neglect. (3-30-01)

552. EMPLOYEE AND VOLUNTEER TRAINING.

Except for a licensed professional under contract with the organization, an organization ~~shall~~ must document that each new employee and volunteer, and current employee and volunteer whose job function significantly changes, and whose primary role requires interaction with children, ~~shall~~ receive at least twenty-five (25) hours of planned training before working independently. Orientation ~~shall~~ cannot be counted toward the required training hours. The training ~~shall~~ must include specific instruction in job responsibilities, policies and procedures, emergency procedures, child safety, child abuse and neglect, and the applicable licensing requirements. (~~3-30-01~~)()

553. -- 559. (RESERVED).

560. PERMANENT REGISTER.

Child agencies and child residential care facilities *shall* must maintain a permanent register of all children admitted into care. The permanent register *shall* must include each child's full name, gender, date and place of birth, parents or guardian, and address of the parent or guardian, who placed the child, the date of placement, date of discharge, and to whom the child was discharged. (3-30-01)(____)

561. CONTENT OF CHILD'S RECORD.

At the time of a child's placement, the person admitting the child *shall* must document in the child's record the child's physical and emotional state at the time of placement. In addition, at the time of placement and if not available at the time of an emergency placement, then within seven (7) days, *even if the placement was for less than seven (7) days*, an organization *shall* must document complete biographical and identifying information on each child admitted into care. (3-30-01)(____)

- 01. Minimum Information.** The record *shall* must contain at a minimum the following: (3-30-01)(____)
- a.** Child's full name; (3-30-01)
 - b.** Date and place of birth; (3-30-01)
 - c.** Gender; (3-30-01)
 - d.** Height, weight, hair color, eye color, race, and identifying marks; (3-30-01)
 - e.** Last known address and with whom the child lived; (3-30-01)
 - ~~**f.** Known previous out-of-home placements, including names, addresses, and dates of the placements;~~ (3-30-01)
 - gf.** Last school attended *and including previous grade level, current grade placement level and scholastic performance*; (3-30-01)(____)
 - ~~**hg.** Parents' full names, including mother's maiden name, marital status, and addresses and if known to be separated or divorced, proof of custody;~~ (3-30-01)(____)
 - ~~**ih.** Guardian's name and address;~~ (3-30-01)
 - ~~**ji.** Date of admission;~~ (3-30-01)
 - ~~**kj.** Name of the person who placed the child in care;~~ (3-30-01)
 - ~~**l.** Known names, addresses, and ages of siblings;~~ (3-30-01)
 - ~~**mk.** For children's residential care facilities which provide treatment, the child's primary diagnosis;~~ (3-30-01)
 - ~~**nl.** The nature of the child's problems or the reason for being served;~~ (3-30-01)
 - ~~**om.** Documentation of authority to accept and care for the child;~~ (3-30-01)
 - ~~**pn.** Child's and parent's religious preference;~~ (3-30-01)
 - ~~**qo.** Where it has been determined that a child is of applicable Indian heritage, compliance with the Indian Child Welfare Act;~~ (3-30-01)
 - ~~**r.** Except for non-accredited schools which do not provide treatment, applicable service plans~~

~~including the dates the plans were developed;~~ (3-30-01)

~~s. Medical, psychological, vision, hearing test and dental records as required by applicable rules, including dates;~~ (3-30-01)

~~pd.~~ Evaluation of the child's physical, social and emotional development and any special problems and needs he has, including medical, surgical and dental care needs; (3-30-01)

~~u.~~ The child's medical provider's name, addresses and telephone number, if any; (3-30-01)

~~vg.~~ Reports of psychological tests and psychiatric examinations and follow-up treatment if obtained; (3-30-01)

~~w.~~ School reports including grades and adjustment; (3-30-01)

~~xr.~~ Record of the child's contacts with his family; (3-30-01)

~~ys.~~ Projected discharge date; (3-30-01)

~~zt.~~ Discharge date and after care plan summary; and (3-30-01)

~~aa.~~ The assigned social worker or service worker, ~~where appropriate.~~ (3-30-01)(____)

02. Child's Health Record. There ~~shall~~ must be a health record for each child, available to appropriate staff for emergency use and to provide for the child's routine care. The record ~~shall~~ must contain at a minimum the following: (3-30-01)(____)

~~a. Medical and mental health authorizations;~~ (3-30-01)

~~ba.~~ The child's health history and initial health screening, including known allergies; (3-30-01)

~~eb.~~ *Child's Medications.* A list of all medications the child is taking at the time of admission and any medication prescribed for the child while in care including the date prescribed and the prescribing physician; and (3-30-01)(____)

~~dc.~~ A copy of the child's medical provider's name, addresses and telephone number ~~if any.~~ (3-30-01)(____)

562. AUTHORIZATIONS REQUIRED.

Written authorization ~~shall~~ must be obtained from the parent, guardian or court of jurisdiction to obtain and provide routine medical care, emergency medical and surgical care, and mental health care for the child. (3-30-01)(____)

563. SERVICE PLANS.

~~Except for a child admitted into shelter care, a non-accredited residential school, or a child in care with its parents or adoptive parents, a~~ An organization ~~shall~~ must develop and follow a written service plan for ~~the~~ a child admitted into care unless otherwise provided for in Sections 546, and 790 through 794 of these rules. (3-30-01)(____)

01. Initial Service Plan. The initial service plan ~~shall~~ must be developed and recorded in the child's record within thirty (30) days after admission and ~~shall~~ must: (3-30-01)(____)

a. Assess the appropriateness of the current placement and project the length of stay in care Identify the needs of the child and family and provide goals and a time frame to achieve the goals; (3-30-01)(____)

b. Assess the child's and family's strengths and needs in the applicable areas of permanency, education, mental health, socialization, health care, and dental care Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; (3-30-01)(____)

~~c. Identify plans for parent and child visitation unless documented as contraindicated~~ Establish and document criteria for discharge; (3-30-01)(____)

~~d. Specify treatment goals, methods, and time frames for each treatment goal to meet the identified needs of the child and family~~ Demonstrate the service plan was developed in a process that included participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if he is under nine (9) years of age or not capable of understanding the purpose of the planned services; and (3-30-01)(____)

~~e. Specify the behavior management techniques to be used by the persons providing the child's care and supervision;~~ (3-30-01)

~~f. Identify the barriers and the techniques to be used to overcome the barriers to the child's returning home, being placed with a relative, or another permanent placement and document why returning home or being placed with a relative is not a goal;~~ (3-30-01)

~~g. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals;~~ and (3-30-01)(____)

~~h. Specify the projected next placement.~~ (3-30-01)

02. Updated Service Plan. A service plan ~~shall~~ must be updated ~~within one hundred twenty (120) days after the admission and every ninety (90) days thereafter. Updated service plans shall assess the appropriateness of continuing the current placement, project length of stay in care, and update each element of the service plan. and~~ must; (3-30-01)(____)

a. Assess the appropriateness of continuing the current placement; (____)

b. Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; (____)

c. Document progress towards achieving the goals in the service plan; (____)

d. Demonstrate the service plan was developed in a process that included participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if he is under nine (9) years of age or not capable of understanding the purpose of the planned services. (____)

564. SHELTER CARE ADMISSION AND PLANS.

The organization ~~shall~~ must develop and follow a ~~brief~~ written plan within seven (7) days of admission to shelter care. The plan ~~shall~~ must assess the child's immediate and specific needs and identify the specific services to be provided by the organization and other resources to meet the needs. (3-30-01)(____)

01. Shelter Care in Excess of Thirty Days. The organization ~~shall~~ must re-assess and update the written plan for each child remaining in shelter care for thirty (30) days and at forty-five (45) days. The plan ~~shall~~ must include: (3-30-01)(____)

a. The reason for continued care; (3-30-01)

b. Plans for other placement; and (3-30-01)

c. Barriers to other placement and the plans to eliminate the barriers. (3-30-01)

02. Shelter Care More Than Sixty Days. The organization ~~shall~~ must develop and follow service plans that comply with these rules, except the initial service plan ~~shall~~ must be developed after sixty (60) days of admission. The service plan ~~shall~~ must be updated every ninety (90) days thereafter. (3-30-01)(____)

565. MAINTENANCE OF RECORDS.

An organization *shall must* have and follow written policies and procedures for the maintenance and security of records. The policy and procedures *shall must*: (3-30-01)

01. Record Storage. Ensure that the records are stored in a secure manner. (3-30-01)

02. Record Confidentiality. Ensure confidentiality of and prevent unauthorized access to the records. (3-30-01)

03. Organization of Record. Require that similar type records be maintained in a uniform and organized manner. (3-30-01)

~~**04. Record Access.** Specify who may have access to the records. (3-30-01)~~

054. Record Storage for Closed Organizations. Before an organization ceases operations, it must arrange with the Department for the storage of all child and adoptive family records required to be maintained by rules. (3-30-01)

566. RECORD RETENTION.

Except for an adoptive record, records *shall must* be maintained for at least seven (7) years after the child has been released from the organization's care or until the child reaches the age of twenty-five (25), which ever is longer. A record for an adopted child and adoptive parent *shall must* be kept ~~in perpetuity forever~~. The record for each applicant for a foster care license or certification or an application to adopt where there was no adoptive placement *shall must* be maintained for at least seven (7) years after provision of services has ended. (~~3-30-01~~)(____)

567. -- 569. (RESERVED).

570. REPORTING OF CHILD ABUSE, ABANDONMENT, AND NEGLECT.

All suspected incidents of child abuse, ~~and abandonment, or neglect~~ *shall must* be reported immediately to law enforcement or the Department as required by Section 16-161905, Idaho Code. The chief administrator or designee of the children's agency or facility *shall must* ensure the safety and protection of children when the allegation is against an organization's staff or volunteer and *shall must* initiate a thorough investigation and administer appropriate disciplinary action, when indicated. (~~3-30-01~~)(____)

571. HEALTH SERVICES.

The organization *shall must* provide a physical exam within the last year by a licensed physician when the child has been in continuous care. If a child has not been in continuous care, a physical *shall must* be done within thirty (30) days of admission by a licensed physician. Annual physical exams *shall must* be provided for a child two (2) years of age and older, and on a schedule determined by a pediatrician for a child under two (2) years of age. Documentation *shall must* be maintained of current immunizations or provisions for immunizations as required by Section 39-4801, Idaho Code, within thirty (30) days of admission. The organization *shall must* provide documentation of medical care for the treatment of illnesses, carrying out corrective measures and treatment, and for the administration of medication as ordered by the physician. (~~3-30-01~~)(____)

572. DENTAL SERVICES.

For children three (3) years of age and older, the organization *shall must* ensure and document the child has had a dental exam within the last nine (9) months or a dental exam within three (3) months of admission, a yearly dental exam and necessary dental treatment, including prophylaxis, extraction, repair and restoration. The organization *shall must* make provisions for appropriate dental care for a child under the age of three (3) when the child's dental needs indicate. Documentation of all medical treatment provided while the child is in care and documentation of applicable medical insurance provider, policy numbers and who holds the policy must be maintained. (~~3-30-01~~)(____)

573. NON-VIOLENT PHYSICAL INTERVENTION.

An organization *shall must* have written policies and procedures governing the appropriate use of non-violent physical restraint intervention strategies. The policies and procedures *shall must* be ~~in accordance with the~~ according to non-violent physical restraint intervention strategies of a nationally recognized program ~~and~~. Non-violent physical restraint intervention strategies must include the following: (~~3-30-01~~)(____)

01. Protection from Harm to Self or Others. Be used only when a child's behavior is out of control and could physically harm himself or others, or to prevent the destruction of property when the child fails to respond to non-physical behavior management interventions. (3-30-01)

02. Intervention Time Guidelines. Be used only until the child has regained control and *shall must* not exceed fifteen (15) consecutive minutes, include written documentation of attempts made to release the child from the restraint if more than fifteen (15) minutes is required. (~~3-30-01~~)()

03. Intervention Training Requirements. Be used only by employees or volunteers documented to have been specifically trained in its use and authorized to apply such strategies. (3-30-01)

04. Conditions Limiting Restraint Use. Prohibit the application of a non-violent physical restraint intervention if a child has a documented physical condition that would contraindicate its use, unless a qualified medical professional has previously and specifically authorized its use in writing. Documentation *shall must* be maintained in the child's record. (~~3-30-01~~)()

05. Prohibition of Prone Restraints. Prohibit the use of prone restraints. ()

056. Intervention Documentation. Require documentation of the behavior which required the non-violent physical restraint intervention strategy, the specific attempts to de-escalate the situation before using physical restraint, the length of time of the non-violent physical restraint intervention strategy was applied which *shall* includes documentation of the time started and completed, and the debriefing completed with the staff and child involved in the non-violent physical restraint intervention strategy. (~~3-30-01~~)()

06. Subsequent Review. Require that whenever the non-violent physical intervention policy and procedures have been used on a child more than two (2) times in one (1) week, there is a review by the chief administrator or his designee. Appropriate action *shall must* be taken based on the findings of the review. (~~3-30-01~~)()

574. CLIENT GRIEVANCE POLICY.

An organization *shall must* develop and follow a written grievance policy for clients that is written in simple and clear language, requires prompt investigation of the grievance by ~~an objective~~ person who can be objective, and provides at least one (1) level of appeal. Clients *shall must* be made aware of the grievance policy and this *shall must* be documented. The policy *shall must* be shared in a manner appropriate to the child's age and his ability to understand. The policy *shall must* require monitoring to ensure there is no retaliation against the child or the person who files a grievance. (~~3-30-01~~)()

575. SUICIDE PREVENTION PLAN.

An organization *shall must* develop and follow a written suicide prevention plan that addresses the needs of the population the organization serves. (~~3-30-01~~)()

576. CLOTHING.

An organization *shall must* ensure that each child in care has sufficient clean, properly fitting clothing, appropriate for the child's age, gender, individual needs, program and season. (~~3-30-01~~)()

577. VISITATION POLICY.

An organization *shall must* have and follow a written visitation policy. The policy *shall will* encourage visits between a child in care and family members and others significant to the child except when visitation is contraindicated and is documented in the child's record or a court order. The policy *shall must* require the maintenance of a log of visitation for each child in residential care which includes the name of the person visiting and the date and time of the visit. (~~3-30-01~~)()

578. CORRESPONDENCE POLICY.

An organization *shall must* have and follow a written correspondence policy that specifies the conditions under which the organization restricts the receipt of correspondence to or from a child. The conditions *shall must* require that the child and parent or guardian be informed of the restriction, the reason for the restriction, and that the restriction be

documented in the child's record. The policy ~~shall~~ must prohibit staff and foster parents from reading children's correspondence except where there is a legitimate documented reason to do so. When staff or foster parents read a child's correspondence, the child ~~shall~~ must be present. Packages may be exempt from the prohibition against inspection. (3-30-01)(____)

579. RELIGIOUS AND CULTURE POLICY.

An organization ~~shall~~ must have and follow a written policy on religious participation, religious training and cultural heritage of a child. The policy ~~shall~~ will require reasonable attempts to accommodate the religious and cultural preferences of the child and parents. When it is required by the program that a child participate in religious practices, the provider's policy ~~shall~~ must clearly state so and the parent, guardian and referral source ~~shall~~ must be informed of the requirement, before placement of the child. (3-30-01)(____)

580. EDUCATION POLICY.

An organization ~~shall~~ must have and follow an education policy. The policy ~~shall~~ will require that ~~as soon as possible but at least~~ within five (5) school days after a child's placement, each child of school age, as defined by state law, be enrolled in an appropriate school program or document why the child was unable to enroll. (3-30-01)(____)

581. PERSONAL POSSESSIONS, ALLOWANCE, AND MONEY POLICY.

An organization ~~shall~~ must have and follow a personal possessions, allowance and money policy. The policy ~~shall~~ will include: (3-30-01)(____)

01. Financial Accounting. Payment of, and accounting for any allowance, social security benefits, and other financial benefits to a child in care. (3-30-01)

02. Child's Personal Possessions. Documented accounting for a child's personal possessions, including clothing with which the child came into care and items which were obtained while he is in care and documented return of all inventoried items, to the child, parent, or guardian at discharge from care, except illegal contraband and contraband prohibited by the organization in its policy which may be exempt from return. (3-30-01)

03. Signature Required. The organization ~~shall~~ must obtain the signature of the parent, guardian or child over eight (8) years of age who is capable of understanding the purpose of the inventory at the time of inventory and when the items are returned. (3-30-01)(____)

582. EMERGENCY POLICIES.

~~01. Emergency Policy Provisions.~~ An organization ~~shall~~ must have and follow an emergency policy and procedures. The policy ~~shall~~ must contain provisions for ensuring that a caregiver has and follows the organization's approved written procedures for the following emergencies: (3-30-01)(____)

- ~~a~~**01.** Fire; (3-30-01)(____)
- ~~b~~**02.** Natural ~~a~~Disasters; (3-30-01)(____)
- ~~e~~**03.** Serious ~~a~~Accident or ~~i~~njury; (3-30-01)(____)
- ~~d~~**04.** Medical; (3-30-01)(____)
- ~~e~~**05.** Missing Child; (3-30-01)(____)
- ~~f~~**06.** Power Outage; (3-30-01)(____)
- ~~g~~**07.** Bomb Threat; (3-30-01)(____)
- ~~h~~**08.** Severe Weather; (3-30-01)(____)
- ~~i~~**09.** Hostage Taking; ~~and~~; (3-30-01)(____)

~~j10. Any Other Dangers Unique to the Location of an Organization. (3-30-01)()~~

(BREAK IN CONTINUITY OF SECTIONS)

601. CHIEF ADMINISTRATOR POSITION AND QUALIFICATIONS.

The children's agency ~~shall~~ must employ or contract for a chief administrator who ~~shall have~~ has at the time of appointment, at a minimum: (3-30-01)()

01. Master's Degree. A Master's degree from an accredited college or university in a field related to ~~human~~ behavioral science, two (2) years of experience working with families or children in a social services setting, and three (3) years of experience in staff supervision and administration; or (3-30-01)()

02. Bachelor's Degree. A Bachelor's degree from an accredited college or university in a field related to ~~human~~ behavioral science, five (5) years of experience working with families or children in a social services setting and three (3) years of experience in staff supervision and administration. (3-30-01)()

602. SERVICE WORKER SUPERVISOR POSITION.

The children's agency may employ a service worker supervisor who ~~shall~~ possesses either: (3-30-01)()

01. Master's Degree Provision. A Service Worker Supervisor ~~shall~~ must be a certified social worker or a person who possesses a Master's degree from an accredited college or university in a related field with appropriate licensure as required by state law, and have demonstrated experience of not less than five (5) years in adoptions or foster care; or (3-30-01)()

02. Bachelor's Degree Provision. A Bachelor's degree from an accredited college or university in a ~~human~~ behavioral science, or in another major where twenty-five percent (25%) of the course credits earned toward the degree are in ~~human~~ behavioral sciences, and five (5) years of experience working with families or children in a social service setting and three (3) years in staff supervision and administration. (3-30-01)()

603. ~~SERVICE WORKER SUPERVISOR RESPONSIBILITIES (RESERVED).~~

~~A service worker supervisor shall be responsible for providing ongoing supervision to designated social workers and ensure that the delivery of services complies with licensing requirements for a children's agency. (3-30-01)~~

604. SOCIAL WORKER POSITION AND QUALIFICATIONS.

A children's agency may employ or contract for a licensed social worker who ~~shall~~ possesses at least a bachelor's degree from an accredited college or university with a major in a social work. (3-30-01)()

605. SERVICE WORKER POSITION AND QUALIFICATIONS.

A children's agency ~~may~~ that does not employ or contract for a social worker must employ or contract for a service worker. (3-15-02)()

01. Qualification. Qualifications of the service worker ~~shall~~ must be verified through written documentation of work experience and education. The service worker ~~shall~~ will have at least a minimum: (3-15-02)()

~~a. A bachelor's degree in a behavioral science such as social work, psychology, marriage and family counseling; or (3-15-02)~~

~~b. A closely related field. A closely related field will have at least twenty-one (21) semester credit hours (equivalent to a minor degree) in a human services field such as psychology, social work, counseling, or marriage and family counseling; and either; (3-15-02)~~

~~ia. Twenty (20) hours of completed training in adoption or foster care services specific to the assigned duties; or (3-15-02)~~

~~#b.~~ One (1) year of full-time paid experience in adoption or foster care services specific to assigned duties. (3-15-02)

02. Training. Service Workers must document twenty (20) hours of completed training every four (4) years in adoption or foster care services specific to the assigned duties. (3-15-02)

606. SOCIAL WORKER OR SERVICE WORKER RESPONSIBILITIES.

~~A children's agency shall require that social workers or service workers are directly responsible for service plans, selecting foster home and adoptive placements, foster home certification and studies, preparing adoptive family studies and supervision and support services for children in foster care, adoptive placements, and transitional living~~
The responsibilities of a social worker or service worker employed or contracted by a children's agency will include child assessment, service plan development, child placement, foster or adoptive home assessment, supportive services for children and families, and transitional living services. (3-30-01)(____)

607. SELF-SUPERVISION PROHIBITED.

Neither a service worker supervisor nor a social worker ~~shall be~~ is allowed to supervise his own work. (3-30-01)(____)

608. STAFF WORKLOADS.

A children's agency ~~shall~~ must have identified workload standards for each staff member. (3-30-01)(____)

01. Supervisor to Staff Ratio. Service Worker Supervisors ~~shall~~ must not supervise more than eight (8) workers made up of the following: social workers, service workers, and social service aides. (3-30-01)(____)

02. Caseload Limitations. At the discretion of the supervisor, a social worker or service worker may be assigned a caseload of twenty (20) families with an adoption placement, active child foster care, or transitional living cases; or forty (40) adoptive families being studied or awaiting an adoptive placement or foster home certification cases, or a proportionate combination of these functions. (3-30-01)

~~**609. CERTIFICATION TRAINING.**~~

~~A children's agency shall ensure that a social worker or service worker who performs foster home licensing or certification functions receives training appropriate to his level of functioning.~~ (3-30-01)

~~**610. -- 614. (RESERVED).**~~

615. ADDITIONAL PROVISIONS FOR FOSTER HOME CERTIFICATION.

A children's agency that licenses or certifies foster homes ~~shall~~ must have policies to comply with foster care rules, Sections 400 through 499 of these rules and may require that additional foster care standards be met if the agency deems appropriate. (3-30-01)(____)

616. PROGRAM DESCRIPTION.

A children's agency providing foster care ~~shall~~ must include information in their brochure and their licensing application of the types of foster care provided, the type and number of homes needed, and the type of support services provided to foster parents. (3-30-01)(____)

617. LICENSING AND CERTIFICATION AGENCY POLICIES AND PROCEDURES FOR FOSTER HOMES.

In addition to meeting the general requirements for policies in Sections 500 through 616 of these rules, a children's agency which licenses or certifies foster homes ~~shall~~ must have policies and procedures for Sections 618 through 649 of these rules. (3-30-01)(____)

618. APPLICATION REQUEST PROCESS.

A children's agency that licenses or certifies foster homes ~~shall~~ must document that a person who has requested an application ~~receives~~ has been given a copy of the foster care rules; found in Sections 400 through 499; ~~is informed that a copy of these rules are available,~~ of these rules and ~~is~~ has been provided a copy of the ~~children's agency's~~ foster parent training requirements for children's agencies. (3-30-01)(____)

619. APPLICATION SUBMISSION, WITHDRAWAL, AND DENIAL PROCESS (RESERVED).

Agency Application Action. A children's agency shall initiate and document action within thirty (30) days of receipt of a completed and signed application for a foster home license or certification. An application may be considered withdrawn if the applicants fail to cooperate with completion of the licensing or certification process for a period of sixty (60) days and has been provided written notice that failure to cooperate will result in the application being considered withdrawn. Notice that the application is withdrawn shall be provided per the requirements of Sections 100 through 149 of these rules. A children's agency shall deny an application if the applicant fails or refuses to comply with an applicable rule. If denying an application, the procedures required by these rules shall be followed.
(3-30-01)

620. INITIAL AND SUBSEQUENT FAMILY FOSTER HOME EVALUATION STUDY PROCESS AND CONTENTS.

The children's agency ~~shall~~ must conduct ~~the~~ an appropriate home study based on the foster care Sections 400 through 499 of these rules, to determine if the family meets required licensing standards to be issued a foster care license, and ~~shall~~ must maintain a copy of the study on file.
(3-30-01)(____)

621. TRAINING.

The children's agency ~~shall~~ must have and follow a training policy that ~~shall~~ includes meeting the orientation and ongoing training requirements of Sections 400 through 499 of these rules, and ~~shall~~ must include additional information on the requirements unique to the particular agency program. All foster care training ~~shall~~ must be documented in the foster parents case file record.
(3-30-01)(____)

622. PLACEMENT AGREEMENT REQUIRED CONTENTS.

The children's agency ~~shall~~ must use a placement agreement that ~~shall be~~ is signed by the foster parents and the children's agency before placing a child in a foster home. The placement agreement ~~shall~~ must identify the responsibilities of the children's agency including supervision and support services for the foster family and the responsibilities of the foster family. The foster family ~~shall~~ must be informed and agree to follow the children's agency policies and procedures. A children's agency ~~shall~~ must review the agreement with the foster family at least annually and, when needed, develop a new agreement. The children's agency ~~shall give a~~ must provide the foster family with a copy of the signed current placement agreement and maintain a copy in the foster home record.
(3-30-01)(____)

623. COMPLAINT INVESTIGATION, BASIS, TIME REQUIREMENTS, NOTIFYING FOSTER PARENTS, CONTENTS, AND PROCESS.

When a complaint is received that relates to possible foster parent noncompliance with any provisions in Sections 400 through 499 of these rules, a children's agency ~~shall~~ must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, no later than seven (7) calendar days after receipt of the allegation. A children's agency ~~shall~~ must inform a foster parent that a complaint has been received, provide a clear description of the allegations, and allow a representative of the foster parent in interviews regarding the complaint before they are questioned or interviewed.
(3-30-01)(____)

01. Investigation Timeline and Extension. A children's agency ~~shall~~ must complete a complaint investigation within forty-five (45) calendar days after receipt of the allegation. If additional time is required, the children's agency ~~shall~~ must inform the foster parent, in writing, of the basis for the extension.
(3-30-01)(____)

02. Summary of Findings. Before completion of a written report, a children's agency ~~shall~~ must provide a verbal summary of the preliminary findings with the foster parent.
(3-30-01)(____)

03. Agency Written Report. Upon completion of the investigation, a children's agency ~~shall~~ must prepare a written report that includes date and report source, identification of the source of the allegation, unless anonymous or confidential, as specified in the Child Protective Act, Title 16, Chapter 16, Idaho Code. The report ~~shall~~ must also include:
(3-30-01)(____)

- a. The specific allegations; (3-30-01)
- b. Dates and places of contacts, names of persons interviewed, and names of the interviewers. If

children are interviewed, their names ~~shall~~ must be coded in the report; (3-30-01)(____)

c. Findings of fact, based on the investigation; (3-30-01)

d. Conclusions regarding compliance or noncompliance with Sections 400 through 499 of these rules, based on the findings of the investigation summarized in the report; (3-30-01)

e. Any changes in the children's agency decision regarding placement specifications that are based on the findings of the investigation summarized in the report; and (3-30-01)

f. Recommendations regarding licensing or certification action and any required corrective action. (3-30-01)

04. Conclusion of Investigation. A children's agency ~~shall~~ must provide a copy of the complaint investigation report, excluding the source of the allegation to the foster parent, within ten (10) calendar days of its completion. The foster parent ~~shall~~ must be allowed to attach his written response to the report. The children's agency ~~shall~~ must document any identified corrective action required of the foster family. (3-30-01)(____)

624. RECORDS MANAGEMENT, MAINTENANCE, AVAILABILITY TO FOSTER PARENT, AND CONTENTS.

A children's agency ~~shall~~ must maintain a foster home record for each foster home and may make copies of a record available to the applicant or licensed or certified foster parent upon request except for medical documents specifically identified as confidential, pending complaint investigation reports and documents, records of privileged communications and criminal records, police reports, and child protective service information. Social security numbers from any source ~~shall~~ cannot be provided, except a social security number needed by a foster parent to provide needed services for a foster child. (3-30-01)(____)

01. Record Contents. The record ~~shall~~ must contain all documents pertaining to licensing or certification of the home, any complaint investigation reports, and placement agreements between a foster parent and the children's agency. (3-30-01)(____)

02. Placement Record. A complete record identifying all children placed in the foster home and removed from the home, including: full name, age, gender, and race of the child; date of the placement; date and reasons for a foster child's departure from the foster home; any written response from a foster parent to a complaint investigation or response to a cited rule compliance; and any corrective action plans. (3-30-01)

625. -- 629. (RESERVED).

630. ADDITIONAL PLACEMENT CONSIDERATIONS.

A children's agency ~~shall~~ must follow the provisions of Sections 400 through 499 of these rules and have a policy on the following placement considerations. (3-30-01)(____)

01. Child Placement Preparation. Before the placement of a child, the children's agency ~~shall~~ must prepare the child for the placement consistent with the child's age, individual needs, the circumstances necessitating placement, and identified special problems presented. (3-30-01)(____)

02. Placement Emergency Change. If an emergency change in placement is necessary, within fourteen (14) days of the placement change, documentation ~~shall~~ must be included in the child's record. (3-30-01)(____)

03. Placement Service Termination. If a children's agency is no longer providing services to the child in a foster home, the following information ~~shall~~ must be documented within fourteen (14) days of the service termination that ~~will~~ includes a summary of the services provided, ~~and~~ the needs that remain, and provision for any continuing services with another children's agency. (3-30-01)(____)

631. EMERGENCY EVACUATION PLAN.

A children's agency ~~shall~~ must have a policy to require and approve a written evacuation plan for a foster home.

(3-30-01)(____)

632. UNUSUAL INCIDENT POLICY.

The children's agency ~~shall~~ must have a policy to notify the state licensing authority within one (1) working day of the occurrence of an incident as outlined in Section 473 of these rules. The policy ~~shall~~ must require the children's agency to notify the Department immediately, the foster child's parents, and the responsible children's agency of the death of a foster child.

(3-30-01)(____)

633. SERVICE PLANS AND PARTICIPANTS.

A children's agency ~~shall~~ must develop initial and updated service plans on behalf of the child through a team approach which includes the child, the child's parents or legal guardian, the foster parents, the referring children's agency, others identified in providing needed placement services and the assigned social worker or service worker, as appropriate. A service plan ~~shall~~ must include behavioral management procedures with the placing agency, if appropriate, and with the foster parents and ~~maintain~~ a copy must be maintained in the child's file.

(3-30-01)(____)

634. CHILDREN'S AGENCY SUPERVISION OF CHILD.

~~Supervisory Visits Plan.~~ A children's agency ~~shall~~ must develop a plan of supervisory visits with a child in foster care consistent with the child's service plan, as required by these rules. The child's record ~~shall~~ must contain documentation that the assigned social worker or service worker personally visited the foster child at least once each month. A children's agency may reduce the number of social worker or service worker visits with a child to once every ninety (90) days if there is documentation and justification in the service plan that a child's placement in a foster home is a long-term planned placement. At least one-half (1/2) of the visits ~~shall~~ must occur in the foster home.

(3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

705. CHIEF ADMINISTRATOR QUALIFICATIONS.

A children's residential treatment care facility ~~shall~~ must employ or contract ~~for~~ with a full time chief administrator, ~~who shall~~ At the time of appointment, the chief administrator must have, at a minimum: (____)

01. Bachelor's Degree. ~~A~~ Bachelor's degree in a relevant discipline, two (2) years of experience working with children, and three (3) years experience in staff supervision and administration. (____)

02. Career Development Program. ~~or have~~ Completed a career development program which includes work-related experience, training or college credits, or a combination of these, that provide a level of achievement equivalent to the Bachelor's degree. Work experience must include two (2) years of experience working with children, and three (3) years of experience in staff supervision and administration. (3-30-01)(____)

706. SERVICE WORKER SUPERVISOR QUALIFICATIONS.

A service worker supervisor, at the time of appointment, ~~shall be at least twenty-one (21) years of age and shall~~ must possess at least one (1) of the following: (3-30-01)(____)

01. Master's Degree. A Master's degree from an accredited college or university in a ~~human~~ behavioral science and one (1) year of experience as a service worker; or (3-30-01)(____)

02. Bachelor's Degree. Bachelor's degree from an accredited college or university in a ~~human~~ behavioral science, including social work, sociology, psychology, criminal justice, counseling, or ~~another major~~ where twenty-five percent (25%) of the course credits earned toward the degree are in human behavioral sciences, a related field, and four (4) years of experience working with children, of which two (2) years ~~of which shall~~ must have been as a service worker. (3-30-01)(____)

707. DIRECT CARE STAFF SUPERVISOR QUALIFICATIONS.

A direct care staff supervisor, at the time of appointment, ~~shall be at least twenty-one (21) years of age and shall~~ must possess at least one (1) of the following: in Subsection 707.01 through 707.03 of this rule. (3-30-01)(____)

01. Bachelor's Degree. A Bachelor's degree from an accredited college and one (1) year of full-time experience in a children's residential care facility; ~~or.~~ (3-30-01)(____)

02. Associate's Degree. An Associate's degree or a minimum of forty-eight (48) credit hours from an accredited college and two (2) years of full-time experience in a children's residential care facility; ~~or.~~ (3-30-01)(____)

03. Experience. A high school diploma or equivalent and three (3) years of full-time experience in a children's residential care facility. (3-30-01)

708. ~~SERVICE WORKER QUALIFICATIONS (RESERVED).~~

~~A service worker, at the time of appointment, shall be at least twenty-one (21) years of age and possess at least a Bachelor's degree from an accredited college or university with a major in a human behavioral science, or another major where twenty five percent (25%) of the course credits earned toward the degree are in human behavioral sciences.~~ (3-30-01)

709. DIRECT CARE STAFF QUALIFICATIONS.

Direct care staff ~~shall~~ must be at least nineteen (19) years of age at the time of appointment and possess a high school diploma or equivalent. (3-30-01)(____)

710. REQUIRED STAFF RATIOS.

There ~~shall~~ must be written staff ratios for direct care staff to children and service workers to children. Unless otherwise specified in these rules, staff ratios ~~shall~~ must be ~~as described in Subsections 710.01 through 710.06 of this rule.~~ (3-30-01)(____)

01. Supervisor-Staff Ratio. At least one (1) staff supervisor for every twenty (20) direct care staff or fraction thereof. (3-30-01)

02. Staff-Child Ratio-Daytime. At least one (1) direct care staff to every eight (8) children when children are awake and present, unless the presenting problems of the children in care are such that a ratio of one (1) to eight (8) is not sufficient to provide for the safety and treatment needs of the children. In that case, the ratio of direct care staff to children ratio ~~shall~~ must be increased to ensure the safety and treatment needs of the children are met. (3-30-01)(____)

03. Staff-Child Ratio-Sleeping Hours. At least one (1) awake direct care staff to twenty (20) children or fraction thereof during the children's normal sleeping hours in buildings housing children's sleeping quarters. If the presenting problems of the children in care are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs of the children, then the ratio of direct care staff to children ratio ~~shall~~ must be increased to ensure the safety and treatment needs of the children are met. (3-30-01)(____)

04. Medical Emergency. At least one (1) staff on duty in a children's residential care facility who is certified to provide cardiopulmonary resuscitation (CPR) and first aid for the age of the children in care. (3-30-01)

05. Emergency Staff Access. When only one (1) direct care worker is on duty, an additional staff person ~~shall~~ must be available within ten (10) minutes or if assistance from law enforcement is available within ten (10) minutes an additional staff person ~~shall~~ must be available within thirty (30) minutes to assist with an emergency. (3-30-01)(____)

06. Service Worker or Social Worker Ratios. Except for non-accredited children's residential schools, at least one (1) service worker or social worker as defined in Section 011 of these rules needs to be available for every twenty (20) children in care or fraction thereof. (3-30-01)(____)

711. HOUSE PARENT RELIEF STAFF.

Where house parents are used to provide direct care staff functions, they ~~shall~~ must be provided time off in accordance with the Idaho Department of Commerce and Labor requirements in Section 44-1202, Idaho Code. (3-30-01)(____)

712. STAFF TRAINING.

Unless otherwise specified in these rules, an employee or volunteer whose primary job function requires interaction with children and who works twenty-four (24) or more hours a week ~~shall~~ **must** receive at least twenty (20) hours of training annually. An employee or volunteer whose primary job function requires interaction with children and who works less than twenty-four (24) hours a week ~~shall~~ **must** receive at least ten (10) hours of training annually. The training ~~shall~~ **must** include cultural sensitivity and diversity, behavior management, and child development issues appropriate to the population served. Training ~~shall~~ **must** also include instruction in administering cardiopulmonary resuscitation (CPR) and administering first aid appropriate to the age of the children in care within ninety (90) days after employment. (3-30-01)(____)

713. -- 714. (RESERVED).

715. COMPLIANCE WITH APPLICABLE LAWS.

Children's residential care facilities ~~shall~~ **must** comply with the applicable Idaho state and local zoning, fire, health, construction laws, ordinances and regulations. (3-30-01)(____)

01. Sanitation Inspection. The applicant must request and obtain a sanitation inspection and written report from the applicable Idaho Public Health District. (____)

02. Fire Inspection. The applicant must request and obtain a fire safety inspection and written report from the office of the Idaho State Fire Marshall, or local fire department. (____)

03. Corrective Action and Fees. The applicant must correct all deficiencies noted in the sanitation and fire reports (in order to provide documentation that the applicant has passed the inspections) and is responsible to pay any fees charged. (____)

04. Planning and Zoning. The applicant must provide documentation demonstrating it meets planning and zoning requirements of the applicable Idaho city or county. (____)

716. CHILDREN'S RESIDENTIAL CARE FACILITY BUILDING REQUIREMENTS.

A children's residential care facility building ~~shall~~ **must** meet the requirements in Subsection 716.01 through 716.03 of this rule: (3-30-01)(____)

01. Access to Community Resources. The facility must ~~h~~have access to school facilities, hospitals, churches, recreational and other community resources. (3-30-01)(____)

02. Occupancy Restrictions. The facility must ~~h~~ouse only the number of persons for which it is rated, given its type of construction and size. (3-30-01)(____)

~~**03. Classification Plans.** Be constructed or arranged so children can be grouped in accordance with a classification plan.~~ (3-30-01)

043. Location Restrictions. The facility must ~~A~~not be located within three hundred (300) feet of an aboveground storage tank containing flammable liquids or gasses used in connection with a bulk plant, marine terminal, aircraft refueling or bottling plant of a liquefied gas installation, or similar hazard. (3-30-01)(____)

717. NATIONAL ELECTRICAL CODE COMPLIANCE.

A building used to house children ~~shall~~ **must** comply with the National Electrical Code adopted by the Department of Building Safety in Section 54-1001, Idaho Code or authorized local jurisdiction. (3-30-01)(____)

718. FIRE SAFETY REQUIREMENTS.

A building which houses children ~~shall~~ **must** be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter for compliance with the applicable Uniform Fire Code as described in Section 004 of these rules. A copy ~~shall~~ **of the inspection must** be maintained at the facility. (3-30-01)(____)

~~**01. Group R-3.** Non-Secure Group R-3, Congregate children's residential facility building housing ten~~

~~(10) or less persons shall conform to the current Uniform Building Code for a Group R-3 Congregate Residence;~~
~~(3-30-01)~~

~~02. **Group R-1.** Non-Secure Group R-1, Congregate children's residential facility building housing more than ten (10) persons shall conform to the current Uniform Building Code for a Group R-1 Congregate Residence; and~~
~~(3-30-01)~~

~~03. **Secure Groups.** Secure Groups I-3, children's residential care facility building housing any number of persons shall conform to Group I-3 of Type I or Type II, Fire Restrictive Construction, or a one (1) story building of either Type II one (1) hour, Type III one (1) hour, or Type V one (1) hour construction provided that the floor area does not exceed three thousand nine hundred (3,900) square feet between separation walls of two (2) hour fire resistant construction with openings protected by fire assemblies having one and one-half (1 1/2) hour fire protection rating.~~
~~(3-30-01)~~

041. Fire Extinguishers. Each building used to house children ~~shall~~ **must** have a minimum of one (1) 2-A-10BC type per floor, and if there is a kitchen on the floor, a fire extinguisher ~~shall~~ **must** be in or immediately adjacent to the kitchen. Each fire extinguisher ~~shall~~ **must** be inspected annually by a fire extinguisher service agency.
~~(3-30-01)()~~

02. Smoke Detecting Devices. There must be at least one (1) smoke detector on each floor of the facility, approved by a nationally recognized testing laboratory, installed and maintained as recommended by the manufacturer.
~~()~~

03. Carbon Monoxide Detecting Devices. There must be at least one (1) carbon monoxide detecting device that is approved by a nationally recognized testing laboratory that is installed and maintained as recommended by the manufacturer. A facility that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement.
~~()~~

719. EMERGENCY PROCEDURES.

A children's residential care facility ~~shall~~ **must** have and follow written policies and procedures governing the handling of emergencies which include emergency evacuation plans, telephone numbers for contacting ambulances, emergency medical personnel, fire departments, hospitals, poison control centers, police, location and use of first aid kits, and roster and telephone numbers of staff to be contacted during an emergency, and other emergency services as appropriate.
~~(3-30-01)()~~

720. EMERGENCY DRILLS.

01. Fire Drills. Fire drills ~~shall~~ **must** be held conducted and recorded at least monthly, with each staff work shift conducting participating in a drill at least once a quarter a minimum of once every three (3) months. Emergency evacuation routes ~~shall~~ **must** be posted in conspicuous ~~places~~ locations on each floor of a building housing children.
~~()~~

02. Disaster Drill. A ~~Disaster~~ drills ~~shall~~ **must** be held conducted and recorded at least annually. The annual disaster drill cannot be a fire drill.
~~(3-30-01)()~~

721. ~~DISTRICT PUBLIC HEALTH DEPARTMENT DISTRICT~~ INSPECTION.

The facility ~~shall~~ **must** provide documentation of an initial and annual inspection and approval by the ~~District~~ applicable Idaho Public Health ~~Department~~ District addressing the following health and safety standards before issuing a license for a facility used to house children will be issued. A copy of the inspection ~~shall~~ **must** be maintained at the children's residential care facility. ~~A children's residential care facility shall comply with:~~
~~(3-30-01)()~~

01. Food Safety and Sanitation Standards. ~~Rules of the Idaho Department of Health and Welfare,~~ The facility must comply with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments,";
~~(3-30-01)()~~

02. Sewage Disposal Systems. ~~Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules";~~
~~(3-30-01)~~

~~032.~~ **Drinking Water Systems.** ~~Rules of the Idaho Department of Environmental Quality, The facility must comply with IDAPA 58.01.08, Idaho "Idaho Rules for Public Drinking Water Systems,"; and (3-30-01)(____)~~

~~04.~~ **Garbage Disposal Requirements.** ~~Garbage disposal regulations of the local Public Health District, where the facility is located. (3-30-01)~~

722. BUILDINGS, GROUNDS, FURNISHINGS AND EQUIPMENT.

Buildings used to house children ~~shall~~ must be furnished with comfortable furniture, in good repair and appropriate to the age, size and capabilities of the children. (3-30-01)(____)

723. MAINTENANCE.

Buildings, grounds, furnishings and equipment ~~shall~~ must be kept clean, free of clutter, and in good repair in a scheduled or routine manner. (3-30-01)(____)

724. EQUIPMENT STORAGE.

All facility cleaning equipment ~~shall~~ must be stored separate from the kitchen, ~~and~~ food preparation, ~~and~~ serving, and storage areas. Kitchen and bathroom sinks ~~shall~~ must not be used for cleaning mops, emptying mop buckets, or for any other purpose not connected with food preparation, or personal hygiene. (3-30-01)(____)

725. SERVICE SINK.

A building housing more than twelve (12) persons ~~shall~~ must have a service sink ~~which is~~ used for general maintenance purposes such as floor mopping and not used for food preparation or dish washing. (3-30-01)(____)

726. HAZARDOUS MATERIALS OR TOXINS.

Buildings used to house children ~~shall~~ must be free from hazardous materials and toxins. An organization must provide documentation of testing for radon gas, materials containing asbestos, and lead paint. Documentation ~~shall~~ must be maintained at the facility confirming ~~the any~~ hazardous material or toxins have been removed or do not pose a threat to the children served. Hazardous materials or toxins ~~may include, but~~ are not limited to: lead paint, asbestos, and radon. (3-30-01)(____)

727. LIGHTING.

~~Kitchens, bedrooms, dining rooms, recreation rooms and classrooms~~ All rooms used by children ~~shall~~ must be appropriately lighted for safety and comfort, ~~with a minimum of thirty (30) foot-candles of light. All other areas used by children shall have a minimum of ten (10) foot-candles of light.~~ (3-30-01)(____)

728. HEATING.

~~The temperature in buildings used to house children shall be capable of being heated at least to sixty eight (68) degrees Fahrenheit at a height of three (3) feet above floor level during the day and sixty (60) degrees Fahrenheit at night.~~ Heating and ventilation equipment ~~shall~~ must be properly installed, inspected annually, and kept in good repair. Portable fuel burning and wood burning heating appliances are prohibited. Portable electric heaters ~~shall~~ must not be used in children's residential sleeping quarters. Local fire officials must approve portable heaters used in other areas. (3-30-01)(____)

729. BATHROOM FACILITIES.

A building used to house children ~~shall~~ must have adequate, clean and easily accessible bathroom facilities. The number of toilets ~~for a Group R shall be~~ is one (1) per eight (8) females and one (1) per ten (10) males; bathtubs or showers ~~shall be~~ is one (1) for each ten (10) individuals; washstands ~~shall be~~ is one (1) for every five (5) individuals according to the Uniform Building Code applicable for the type of building and its use. There ~~shall~~ must be separate use of bathroom facilities for boys and girls over six (6) years of age. There ~~shall~~ must be separate bathroom facilities for staff. (3-30-01)(____)

730. SLEEPING ROOMS.

Sleeping rooms in a building used to house children ~~shall be:~~ must meet the requirements in Subsections 730.01 through 730.03 of this rule. (3-30-01)(____)

01. Size. At least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a

multiple occupancy room, there ~~shall~~ must be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms, may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. There ~~shall~~ must be a minimum of three (3) feet between the sides of beds and two (2) feet at the end of the beds. (3-30-01)(____)

02. Window Space. There ~~shall~~ must be sufficient window space for adequate natural light and ventilation. Emergency egress or rescue windows ~~shall~~ must comply with the State-adopted Uniform Building Code. (3-30-01)(____)

03. Restrictions. A child and an adult ~~shall~~ cannot share a sleeping room except that a child under one (1) year of age may sleep in a room with an adult. A sleeping room ~~shall~~ must not be in a stairway, hallway, unfinished attic, ~~or~~ unfinished basement, or in a separate building apart from staff supervision. There ~~shall~~ must be separate rooms for male and female residents. Sleeping rooms ~~shall~~ must be in close proximity to adult supervision. (3-30-01)(____)

731. BEDS.

Each child ~~shall~~ must have his own bed which has substantial support, a comfortable non-neoprene mattress and seasonally appropriate non-neoprene bedding. The bed ~~shall~~ must be equipped with railings when used for children under two (2) years of age. Over-and-under bunk beds ~~shall~~ must not be used for children under eight (8) years of age. Cribs ~~shall~~ must meet Consumer Product Safety Commission, Crib Safety Tips, ~~recommendations~~ as described in Section 004 of these rules. (3-30-01)(____)

732. STORAGE OF POISONOUS AND TOXIC MATERIALS.

Poisonous and toxic materials ~~shall~~ must be stored under lock and key and distinctly labeled as poisonous, toxic and stored so as not to contaminate food and ~~so as~~ not to be a hazard to children. (3-30-01)(____)

733. FLAMMABLE LIQUIDS.

Flammable liquids, including gasoline, and kerosene, ~~shall~~ must be stored only in appropriate containers and ~~only in a storage kept~~ only in separate from any building housing children. (3-30-01)(____)

734. FIREARMS.

Firearms ~~shall~~ are not ~~be maintained~~ allowed in a children's residential care facility, ~~except in a facility which uses house parents for the direct care of children. Where house parents have firearms, they shall be unloaded and equipped with trigger locks and stored under lock and key and inaccessible to children. Ammunition shall be stored under lock and key separate from the firearms and inaccessible to children.~~ (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

736. GENERAL SAFETY PROVISIONS.

01. Reasonable Precaution. Reasonable precautions ~~shall~~ must be taken to prevent children from having unauthorized access to machinery, tools, irrigation ditches, and hazardous materials. (3-30-01)(____)

02. Balconies and Stairways. Balconies and stairways accessible to children ~~shall~~ must have substantial railings as required by the State-adopted Uniform Building Code. (3-30-01)(____)

03. Stairway Protection. Where a children's residential care facility provides care to children under three (3) years of age, stairways ~~shall~~ must be protected to prevent children from falling down the stairs. (3-30-01)(____)

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, an outdoor hazard area ~~shall~~ must be restricted to prevent easy access to the hazard. (3-30-01)(____)

737. DIAPERING AND SANITATION.

A diaper-changing area ~~shall~~ must be separate from food preparation and serving areas and be easily accessible to a hand-washing sink. The area ~~shall~~ must have non-absorbent and washable surfaces, and ~~shall~~ must be disinfected between uses by different children or protected by a disposable covering discarded after each use. ~~(3-30-01)~~(____)

738. -- 744. (RESERVED).

745. EDUCATION PROGRAM.

Each child of school age ~~shall~~ must attend either an on-grounds or community-based education program that is approved by the Idaho Department of Education, excluding children in a non-accredited children's residential school. When the education program is provided directly by the children's residential care facility, the education program ~~shall~~ must meet the requirements in Subsections 745.01 through 745.08 of this rule. ~~(3-30-01)~~(____)

01. Teacher Ratio. At least one (1) Idaho certified teacher for every twenty (20) children or fraction thereof ~~or as approved by the accreditation or certification standards.~~ ~~(3-30-01)~~(____)

02. Teacher Qualifications. ~~Employ only teachers who are at least twenty-one (21) years of age and who meet accreditation or certification requirements~~ must possess a current Idaho certification. ~~(3-30-01)~~(____)

03. Minimum Hours. Operate for at least as many school days and clock hours as are required by Section 33-512, Idaho Code. (3-30-01)

04. Core Curriculum. Provide ~~Core~~ curriculum appropriate to the population served. ~~(3-30-01)~~(____)

05. Special Education. Provide special education services to a child in care who requires special education. (3-30-01)

06. Written Transcripts and an Individual Education Plan (IEP). Maintain transcripts and IEP's for each child as appropriate. (3-30-01)

07. Grading System. Use a uniform grading system. (3-30-01)

08. Release of Records. Process for transfer and release of education records to and from other schools and children's residential care facilities. (3-30-01)

746. WORK.

Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work ~~shall~~ must not be to substitute for paid labor. ~~(3-30-01)~~(____)

747. RECREATION, PHYSICAL EXERCISE, AND LEISURE TIME ACTIVITIES.

~~Leisure time activities both on and off the premises shall include~~ An organization must have a policy requiring children have the opportunity for daily participation in recreation, physical exercise and leisure time activities. The organization must document both individual and group activities, and a balanced mix of planned recreation, leisure time activities, and physical exercise, including one (1) hour of large muscle activity each day. Participation may must be encouraged but not forced. ~~Children shall be offered a reasonable choice of activities. A schedule of monthly planned recreation, physical exercise and leisure time activities shall be readily available for staff to reference.~~ ~~(3-30-01)~~(____)

748. SLEEP.

A children's residential care facility ~~shall~~ must have and follow policies and procedures governing time to be set aside so that each child ~~shall be~~ is given the opportunity for at least eight (8) hours of uninterrupted rest at night and more time if the service plan or health needs of the child require. ~~(3-30-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

750. WATER FRONT.

At a waterfront used for swimming, there ~~shall~~ must be available a whistle, an assist pole or other appropriate reaching device, a rope attached to a ring buoy or other appropriate throwing assist device, a backboard that has appropriate rigid cervical collars and a minimum of six (6) straps, a first aid kit and a rescue tube. ~~(3-30-01)~~(____)

751. SUPERVISION OF RECREATIONAL ACTIVITY.

Staff conducting or supervising a recreational activity ~~shall~~ must have knowledge of and enforce appropriate safety techniques for the activity ~~and:~~ as described in Subsections 751.01 through 751.05 of this rule. ~~(3-30-01)~~(____)

- 01. Instruction.** Instruct each participant in the appropriate safety procedures. (3-30-01)
- 02. Safety Equipment.** Ensure that each participant uses adequate and appropriate safety equipment for the activity and the child's ability. (3-30-01)
- 03. Rescue Equipment.** Ensure that there is proper rescue equipment available and easily accessible. (3-30-01)
- 04. Cardiopulmonary Resuscitation (CPR) and First Aid.** Ensure that at least one (1) staff has current cardiopulmonary resuscitation (CPR) and first aid certification appropriate to the age of the children in the facility. (3-30-01)
- 05. Staff Coverage.** Ensure that there are adequate members of staff for the activity and children involved. (3-30-01)

752. MEDICATION STORAGE AND ADMINISTRATION.

A children's residential care facility ~~shall~~ must have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. The policy ~~shall~~ must address: the requirements in Subsections 752.01 through 752.06 of this rule. ~~(3-30-01)~~(____)

- 01. Medication Storage and Administration.** Require prescription and over-the-counter medication be stored under lock and key and the keys safe guarded from children. For medications taken on field outings, storage of medication ~~shall~~ must be in the possession of a staff member qualified to administer medications. ~~(3-30-01)~~(____)
- 02. Trained Staff.** Require that staff who administer and assist with self-administration of medications be trained by a qualified medical professional. (3-30-01)
- 03. Psychotropic Medication:** (3-30-01)
 - a.** Prohibit the administration of psychotropic medication unless a qualified medical professional determines that the medication is clinically indicated; and (3-30-01)
 - b.** Prohibit the administration of psychotropic medications for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services; (3-30-01)
- 04. Documentation.** Required documentation for all prescription medication issued by a qualified medical professional's valid order that includes the dosage to be given, and documentation of each dose given, including: (3-30-01)
 - a.** The child's name; (3-30-01)
 - b.** The date and time; (3-30-01)
 - c.** The amount of dosage given and whether the child did not take the medication; and (3-30-01)
 - d.** The person who administered or assisted in self-administration of the medication. (3-30-01)
- 05. Medication Changes.** Require that prescribed medication not be stopped or changed in dosage or

administration without consulting with a qualified medical professional and documenting the consultation and the change. (3-30-01)

06. Disposal of Unused Medication. Require that all unused and expired medication be disposed of so they are not available to children. (3-30-01)

753. UNIVERSAL PRECAUTIONS.

Universal precautions ~~shall~~ must be taken for spills of body fluids such as blood, blood containing body fluids, eye discharge, feces, body tissue discharge, nasal discharge, saliva, urine, vomit, contaminated material and diapers, which ~~shall~~ must be disposed of in a plastic bag that is secured with a tie. The disinfectant solution used to clean up body fluids ~~shall~~ must be a commercially prepared spill kit or a disinfectant solution made from one-fourth (1/4) cup of household bleach to one (1) gallon of water. A person doing the cleaning and disinfecting ~~shall~~ must wear non-porous disposable gloves, ~~m~~Mops, and other cleaning devices and fluids used to clean up body fluid spills ~~shall~~ must be disinfected, properly dried and stored. Syringes ~~shall~~ must be disposed of in accordance with OSHA standards and not to be accessible to children. (~~3-30-01~~)()

754. FIRST AID KIT.

A first aid kit which is approved by a physician or nationally recognized accrediting body, ~~shall~~ must be readily available at all times, containing materials to sufficiently meet the needs of ~~the~~ a child's medical needs until other medical treatment is obtained, if needed. The contents, location and use of first aid kits ~~shall~~ must be reviewed annually with all staff. The content of the kits ~~shall~~ must be inventoried monthly and restocked as needed. (~~3-30-01~~)()

755. NUTRITION.

Children ~~shall~~ must be provided three (3) nutritionally balanced meals in appropriate intervals and in amounts appropriate to their size and age, and which are in accordance with the recommended dietary allowances of the National Research Council or its equivalent. A child ~~shall~~ must be provided a qualified medical professional prescribed diet or special diet based on religious beliefs. A nutritional or dietician professional ~~shall~~ must approve menus annually. The current menu ~~shall~~ must be readily available and any change or substitution ~~shall be~~ noted on the menu. Menus ~~shall~~ must be maintained on file for at least six (6) months. (~~3-30-01~~)()

756. ANIMALS AND PETS.

Animals and household pets ~~shall~~ must be free from disease and cared for in a safe and clean manner. All domestic animals and pets ~~shall~~ must be vaccinated against rabies. Documentation of the vaccination against rabies ~~shall~~ must be kept on file at the children's residential care facility. (~~3-30-01~~)()

757. USE OF TOBACCO PRODUCTS, ALCOHOL, AND ILLEGAL DRUGS PROHIBITED.

Tobacco products, alcohol and illegal drugs ~~shall~~ must not be used by children, staff, volunteers, or visitors in any building used to house children or in the presence of children or in vehicles used to transport children. (~~3-30-01~~)()

758. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a children's residential care facility vehicle ~~shall~~ must be in a vehicle that is: (~~3-30-01~~)()

- a. Properly registered; (3-30-01)
- b. Covered by insurance for personal injury and liability; (3-30-01)
- c. Driven by a person with a valid driver's license for the type of vehicle who complies with all applicable traffic laws while transporting children; (3-30-01)
- d. Maintained in a clean and safe condition; (3-30-01)
- e. Equipped with a red triangular reflector device for use in emergency; (3-30-01)

- f. Equipped with a first aid kit; and (3-30-01)
- g. Equipped with a fire extinguisher that is properly secured and not readily available to children. (3-30-01)
- 02. Proper Seating of Children and Adults:** (3-30-01)
 - a. A child ~~shall~~ must ride in an age appropriate vehicle restraint seat, properly secured, or if the child is large enough, in a vehicle manufactured seat, ~~properly using~~ and properly use the passenger restraint device; and ~~(3-30-01)~~(____)
 - b. Adults riding in the vehicle ~~shall~~ must occupy a manufactured seat and ~~shall~~ use the passenger restraint device. ~~(3-30-01)~~(____)

759. CONTRABAND.

A children's residential care facility ~~shall~~ must define prohibited contraband in a written policy. Contraband found in the possession of children or staff ~~shall~~ must be confiscated by staff and secured in a location inaccessible to children. Local law enforcement ~~shall~~ must be notified in the event that illegal contraband is confiscated. It ~~shall be~~ is the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the children's residential care facility contraband policy. ~~(3-30-01)~~(____)

760. SEARCHES.

If a children's residential care facility conducts searches of children, the children's residential care facility, staff or visitors, it ~~shall~~ must have and follow written policies and procedures. Searches ~~shall~~ must be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with these rules. The policies and procedures at a minimum ~~shall~~ require: the following procedures. ~~(3-30-01)~~(____)

01. Pat Down Searches. Pat down searches of children may only be conducted when the children's residential care facility feels it is necessary to discourage the introduction of contraband into the children's residential care facility, or to promote the safety of staff and other children. Pat down searches are conducted as follows: (3-30-01)

- a. By staff trained in proper search techniques; (3-30-01)
- b. By a staff member of the same sex as the child being searched, and ~~shall~~ must be in the presence of another staff member; ~~(3-30-01)~~(____)
- c. The child is told he is about to be searched; (3-30-01)
- d. The child should remove all outer clothing (gloves, coat, hat and shoes) and empty all pockets; (3-30-01)
- e. The staff person ~~shall~~ must then pat the clothing of the child using only enough contact to conduct an appropriate search; ~~(3-30-01)~~(____)
- f. If the staff detects anything unusual, the child ~~shall~~ must be asked to identify the item and appropriate steps ~~should be~~ taken to remove the item for inspection; ~~(3-30-01)~~(____)
- g. If the child refuses to comply, the administrator or designee will be notified immediately and be responsible to resolve the matter; and (3-30-01)
- h. All searches ~~shall~~ must be documented in writing. ~~(3-30-01)~~(____)

02. Strip Searches are Prohibited. ~~Strip searches may only be conducted after a pat down search, whenever there is reason to believe that contraband may be found through additional searches. Only the children's residential care facility administrator or his designee shall authorize strip searches. Strip searches are to be conducted as follows:~~ ~~(3-30-01)~~(____)

- ~~a. By staff trained in proper search techniques that do not touch the child; (3-30-01)~~
- ~~b. By two (2) staff members of the same sex as the child who is searched; (3-30-01)~~
- ~~c. Performed in an area that ensures the privacy of the child; (3-30-01)~~
- ~~d. The child removes all clothing and moves away from the articles; (3-30-01)~~
- ~~e. Require the child to runs his hands through his hair; (3-30-01)~~
- ~~f. Staff search the clothing and return it to the child; and (3-30-01)~~
- g03. Body Cavity Searches are Prohibited not to be conducted by children's residential care facility staff. (3-30-01)(_____)**

761. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's residential care facility ~~shall~~ **must** have and follow a behavior management and discipline policy for children which identifies appropriate and specific methods of behavior management and discipline, and ensures that the methods of behavior management and discipline are positive and consistent. Individualized behavior management ~~shall~~ **must** be based on an assessment of the child's needs, stage of development and behavior to promote self control, self direction, self esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy ~~shall~~ **must** include the concept and application of least restrictive effective treatment and positive reinforcements and prohibits the following: (3-30-01)(_____)

- a.** Physical force, except as permitted under the restraint Sections 766 and 767 of these rules; (3-30-01)
- b.** Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into the wall, floor or other stationary object; (3-30-01)
- c.** Cruel and unusual physical exercise, including forcing the child to take an uncomfortable position; (3-30-01)
- d.** Verbal abuse, ridicule, humiliation, profanity and other forms of degradation directed at a child or a child's family; (3-30-01)
- e.** Locked confinement in an area except an area approved by the Department for confinement of a child as provided in these rules; (3-30-01)
- f.** Withholding of necessary food, clothing, bedding, rest, toilet use, bathing facilities, and entrance to a children's residential care facility housing a child; (3-30-01)
- g.** Denial of visits or communication with the child's family except as specified in the child's service plan or court order; (3-30-01)
- h.** Denial of necessary educational, medical, counseling, and social services; (3-30-01)
- i.** Disciplining a child or group of children for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised directly by staff; (3-30-01)

- j. The placing of anything in or on a child's mouth; and (3-30-01)
- k. A physical work assignment that produces unreasonable discomfort. (3-30-01)

02. Documentation. An organization ~~shall~~ must document that the policy has been provided to a resident capable of reading it or is explained to the resident appropriate to his age and level of understanding and is made available to parents, guardians, and referral sources. ~~(3-30-01)(_____)~~

762. TIME-OUT.

A children's residential care facility ~~shall~~ must have and follow written policy and procedures governing the appropriate use of time-out, ~~which shall as required:~~ in Subsections 762.01 through 762.08 of this rule. ~~(3-30-01)(_____)~~

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. (3-30-01)

02. Children Under Six Years of Age. For children under six (6) years of age, the period of time for time-out is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, but not a substitute for other developmentally appropriate positive methods of behavior management. (3-30-01)

03. Children Six Years of Age or Older. For children six (6) years of age and older the time duration ~~shall~~ cannot exceed sixty (60) consecutive minutes. ~~(3-30-01)(_____)~~

04. Prohibited Locations. The time-out ~~is~~ cannot be in a closet, bathroom, ~~or~~ unfinished basement, or attic and ~~is~~ cannot be in a locked area or box. ~~(3-30-01)(_____)~~

05. Documentation. A description in sufficient detail to provide a clear understanding of the incident which resulted in the child being placed in time-out, and the staff's attempts to help the child avoid time-out. (3-30-01)

06. Observations. A staff ~~has been~~ person is designated to be responsible for visually observing the child at random intervals not to exceed fifteen (15) minutes. ~~(3-30-01)(_____)~~

07. Re-Introduction to the Group. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as control is regained. (3-30-01)

08. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee, to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques and appropriate action taken is based on the findings of the review. (3-30-01)

763. UNLOCKED SECLUSION.

If a children's residential care facility uses seclusion there ~~shall~~ must be written policies and procedures, which at a minimum ~~shall~~ requires: ~~(3-30-01)(_____)~~

01. Use of Unlocked Seclusion. Unlocked seclusion ~~shall~~ must not be used as punishment or to substitute for other developmentally appropriate positive methods of behavior management. Seclusion may only be used as a means of intervention when the child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to self or others, and less restrictive and less punitive interventions have been applied without success. ~~(3-30-01)(_____)~~

02. Time Needed. Seclusion ~~shall~~ must be used only for the time needed to change the behavior compelling it. ~~(3-30-01)(_____)~~

03. Children Under Six Years of Age. For children under six (6) years of age, the period of time is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, not a substitute for, other

developmentally appropriate positive methods of behavior management. For children six (6) years of age and older the time duration ~~shall~~ cannot exceed sixty (60) consecutive minutes. (3-30-01)(____)

04. Restrictions on Seclusion. The seclusion ~~shall~~ must not be in a box, closet, bathroom, unfinished basement or attic. (3-30-01)(____)

05. Staff Supervision. A staff person is designated to be responsible for visually observing the child at random intervals, which are not to exceed fifteen (15) minutes throughout the period of seclusion, and ~~shall~~ must be recorded in a log. (3-30-01)

06. Supervisory Approval. Supervisory approval is required for a period of seclusion of one (1) child that exceeds two (2) hours, or the total seclusion time exceeds three (3) hours in a twenty-four (24) hour period, or more than four (4) separate seclusion incidents in a twenty-four (24) hour period. (3-30-01)

07. Documentation. Each seclusion ~~shall~~ must be documented in writing and include the child's name, reason for the seclusion, date and start and end time of the seclusion and the staff assigning the seclusion. (3-30-01)(____)

08. Re-Introduction. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he can participate appropriately. (3-30-01)

09. Review. If there are more than ten (10) seclusion's for a child in a twenty-four (24) hour period, there ~~shall~~ must be a review by the chief administrator or his designee. The review ~~shall~~ is to determine whether modifications to the child's service plan are warranted and whether staff needs additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action ~~shall~~ must be taken based on the findings of the review. (3-30-01)(____)

764. LOCKED SECLUSION.

Locked seclusion is used only when a child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to the child or others and other less restrictive and less punitive interventions have been applied without success. Locked seclusion is prohibited for: non-violent and non-assaultive offenses and behaviors; practices designed to prevent children from running away; secluding a child who is ill; as a punishment; and facilitating supervision for the convenience of staff. No more than one (1) child ~~shall~~ can be in a locked seclusion room at a time. Supervisory staff ~~shall~~ must be notified at the time the locked seclusion begins. (3-30-01)(____)

01. Duration. Locked seclusion ~~shall~~ must be used only for the time needed to change the behavior compelling its use. Locked seclusion ~~shall~~ cannot exceed two (2) consecutive hours or a total of four (4) non-consecutive hours within any twenty-four (24) hour period, unless approved by a qualified medical professional. (3-30-01)(____)

02. Potentially Harmful Objects. A child placed in locked seclusion ~~shall~~ must not be in possession of belts, matches, weapons or any other potentially harmful objects or materials that could present a risk of harm to the child. (3-30-01)(____)

03. Observation. A child in locked seclusion ~~shall~~ must be observed by staff at random intervals, not to exceed every ten (10) minutes to assure that the child is safe. (3-30-01)(____)

04. Locked Seclusion Log. A locked seclusion room log ~~shall~~ must be maintained and at a minimum includes: (3-30-01)(____)

- a. The child's name; (3-30-01)
- b. The date and time of placement in locked seclusion; (3-30-01)
- c. The name of the staff who requested the child's locked seclusion; (3-30-01)
- d. The name of the supervisory staff notified and the time and date notified. (3-30-01)

e. A description in sufficient details, to provide a clear understanding, of the incident which resulted in the child being placed in locked seclusion and the staff's attempts to help the child avoid locked seclusion; (3-30-01)

f. A record of observations; and (3-30-01)

g. The date and time of removal from locked seclusion. (3-30-01)

05. Re-Introduction. The child *shall must* be re-introduced to the group in a sensitive and non-punitive manner as soon as he has re-gained control. (~~3-30-01~~)()

06. Review. When a child is in locked seclusion for a total of two (2) cumulative hours or four (4) non-cumulative hours within a twenty-four (24) hour period, there *must* be a review by the chief administrator or his designee within one (1) working day. The review *shall is to* determine whether modifications to the child's service plan is warranted, and whether staff need additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action *shall must* be taken based on the findings of the review. (~~3-30-01~~)()

765. LOCKED SECLUSION ROOM REQUIREMENTS.

Rooms used for locked seclusion *shall must* measure at least seventy-five (75) square feet with a ceiling height of at least seven (7) feet. They *shall must* have either natural or mechanical ventilation and be equipped with a break resistant window, or a mirror or camera that allows for full observation of the room. Locked seclusion rooms *shall must* have no hardware, equipment or furnishings that obstruct observing the child or that present a physical hazard or a suicide risk. Rooms used for locked seclusion *shall must* be inspected and approved by a fire inspector and the Department. (~~3-30-01~~)()

766. MECHANICAL RESTRAINT.

If a children's residential care facility uses mechanical restraint, it *shall must* have and follow written mechanical restraint policies and procedures. The policies *shall must* at a minimum require ~~that:~~ those described in Subsections 766.01 through 766.13 of this rule. (~~3-30-01~~)()

01. Mechanical Restraint Use as a Last Resort. Mechanical restraint *shall must* only be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found to be ineffective, and only after at least one (1) of the following has been determined: (~~3-30-01~~)()

a. The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; (3-30-01)

b. The child is causing serious property damage; or (3-30-01)

c. An attempted escape is imminent and the child is out of control and poses a danger to self or others. (3-30-01)

02. Staff Training. All staff who apply mechanical restraints *shall must* be trained in the proper and safe use of the mechanical restraint device used and training must be current and documented. (~~3-30-01~~)()

03. Intervention. Staff *shall must* inform the child that if his behavior continues, staff will have to intervene by placing him in mechanical restraint to help him regain control. (~~3-30-01~~)()

04. Administrator Approval. The administrator or designee *shall must* approve the use of mechanical restraint for the specific child for the specific behavior before each application of mechanical restraint. (~~3-30-01~~)()

05. Restraint Type. Restraints *shall must* be of a soft type when used to restrain the child's wrists to his side, secure the child's ankles together, or both; or be in or on a mechanical restraint device specifically designed for restraint which is recognized as safe and is made by a nationally recognized restraint device manufacturer. A

restraint device ~~shall~~ must be used only in accordance with the manufacturer's written instructions for the device, except that handcuffs may not be used for more than five (5) minutes when it has been determined that the child may harm himself or others while the mechanical restraint is being applied. Handcuffs may only be used for the time needed to apply the mechanical restraints. (3-30-01)(____)

06. Used Only Until Child Has Regained Control. A mechanical restraint ~~shall be~~ is used only until the child has regained control. (3-30-01)(____)

07. Prohibitions on Mechanical Restraints. Mechanical restraints are prohibited when there are specified medical reasons pursuant to a qualified medical professional's order. A child ~~shall~~ must not be mechanically restrained to a fixed object except one that was specifically designed for the purpose, meets nationally recognized standards and has been approved by the Department. Mechanical restraints ~~shall~~ must not be used for non-violent and non-assaultive offenses and behaviors as punishment to facilitate supervision for the convenience of staff or as a substitute for a treatment program. (3-30-01)(____)

08. Monitoring. A staff assigned to monitor a child placed in mechanical restraint ~~shall~~ must have no other immediate responsibility and ~~shall~~ must be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. (3-30-01)(____)

09. Professional Opinion. After one (1) hour has elapsed with the child in mechanical restraint, or if the child is released from mechanical restraint and has to be placed back in mechanical restraint, the supervisor ~~shall~~ must obtain a qualified medical or mental health professional's opinion regarding continuation of the restraint. The professional giving the opinion ~~shall~~ must be thoroughly familiar with the proper use of the mechanical restraint device being used. It ~~shall be~~ is the qualified medical or mental health professional's responsibility to assess the problem requiring the use of restraint and amass any resources necessary to eliminate the problem. (3-30-01)(____)

10. Mechanical Restraint Log. There ~~shall~~ must be a mechanical restraint log documenting each use of mechanical restraint that ~~shall~~ includes: (3-30-01)(____)

- a. The child's name; (3-30-01)
- b. The date and time of placement in mechanical restraint; (3-30-01)
- c. The name of the staff who requested the mechanical restraint of the child; (3-30-01)
- d. The name of the administrator or designee who approved the use of mechanical restraint of the child; (3-30-01)
- e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being placed in mechanical restraint and the staff's attempts to help the child avoid mechanical restraint; (3-30-01)
- f. Detailed observation notes by the person assigned to monitor the child while in mechanical restraint; (3-30-01)
- g. Documentation of the professional opinion required if a restraint lasts for more than one (1) hour or is returned to mechanical restraint; and (3-30-01)
- h. The date and time of removal from mechanical restraint. (3-30-01)

11. Counsel. When the child has been released from mechanical restraint, staff ~~shall~~ must counsel with the child about the behavior and problems experienced that resulted in the mechanical restraint. (3-30-01)(____)

12. Re-Introduction. The child ~~shall~~ must be re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. (3-30-01)(____)

13. Review. When the child is in mechanical restraint there ~~shall~~ must be a review by the chief

administrator or designee within twenty-four (24) hours. The review ~~shall be~~ is to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action ~~shall~~ must be taken based on the findings of the review. The person doing the review ~~shall~~ must be knowledgeable about the proper use of the mechanical restraint device and its impact on the child. (3-30-01)(____)

767. ALTERNATIVE FORMS OF RESTRAINT.

A children's residential facility ~~shall~~ must have and follow written policies and procedures governing the appropriate use of alternative forms of restraint. ~~Alternative forms of restraint may include, but are not limited to: pepper spray, tear gas, and medically administered sedatives.~~ The policies and procedures ~~shall~~ must be in accordance with the restraint intervention strategies of a nationally recognized program and approved by the Department. The policies ~~shall~~ must at a minimum require ~~that:~~ those described in Subsections 767.01 through 767.11 of this rule. (3-30-01)(____)

01. Restraint Used as a Last Resort. Restraint is only to be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found not to be effective and only after one (1) of the following has been determined: (3-30-01)(____)

- a. The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; (3-30-01)
- b. The child is causing serious property damage; or (3-30-01)
- c. An attempted escape is imminent and poses a serious and evident danger to self or to the community. (3-30-01)

02. Staff Training. All staff who apply restraints are trained in the proper and safe use of the restraint device used and the training is current and documented, including any special certification required to apply the restraint. (3-30-01)

03. Intervention. Staff informs the child that if his behavior continues, staff will have to intervene by use of restraint to help him gain control. (3-30-01)

04. Restraint Approval. Administrative or designee approves the restraint for the specific child for the specific behavior before each application of restraint. (3-30-01)

05. Used Only Until the Child Has Regained Control. Restraint ~~shall~~ must only be used until the child has regained control. (3-30-01)(____)

06. Restraint Is Prohibited: (3-30-01)

- a. When there are specific medical reasons pursuant to a medical professional's order; (3-30-01)
- b. For non-violent and non-assaultive behaviors; (3-30-01)
- c. As punishment; (3-30-01)
- d. To facilitate supervision for the convenience of staff; and (3-30-01)
- e. As a substitute for other more effective treatment methods. (3-30-01)

07. Monitoring. A staff assigned to monitor a child in restraint ~~shall~~ must have no other immediate responsibility and ~~shall~~ must be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. (3-30-01)(____)

08. Restraint Log. A restraint log documenting each use of restraint which includes: (3-30-01)

- a. The child's name; (3-30-01)
 - b. The time and date of initiation of the restraint; (3-30-01)
 - c. The name of the staff who requested the restraint of the child; (3-30-01)
 - d. The name of the administrator or designee who approved the use of the restraint of the child; (3-30-01)
 - e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being restrained and the staff's attempts to help avoid the restraint; (3-30-01)
 - f. Detailed observation notes by the person assigned to monitor the child while in restraint; and (3-30-01)
 - g. The time and date of termination of the restraint. (3-30-01)
- 09. Counsel.** When a child has been released from restraint, staff ~~shall~~ must counsel with the child about behavior and problems experienced which resulted in the restraint use. ~~(3-30-01)~~(____)
- 10. Re-Introduction.** The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. (3-30-01)
- 11. Review.** When a child has been in restraint, there ~~will~~ must be within twenty-four (24) hours a review by the chief administrator or his designee. The review ~~shall be~~ is to determine the suitability of the child remaining in the children's residential care facility and whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action ~~shall~~ must be taken based on the findings of the review. The person doing the review ~~shall~~ must be knowledgeable about the proper use of the restraint device and its impact on the child. ~~(3-30-01)~~(____)

768. TRANSPORTATION OF CHILDREN IN RESTRAINTS PROHIBITED.

~~When children who are security risks are transported they shall be accompanied by child care workers of the same gender. When rest stops and meals are provided to a child who is in mechanical restraints during transportation, the stops shall be made in areas with a minimum exposure to the public when possible. The childcare worker shall accompany the child during restroom stops. All vehicle doors shall be locked. Under no circumstances is a child to be restrained to a vehicle. A children's residential facility or its agents are prohibited from transporting children in restraints.~~ ~~(3-30-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

780. ADDITIONAL PROVISIONS FOR CHILDREN'S ALCOHOL-DRUG ABUSE RESIDENTIAL CARE FACILITIES.

~~(Sections 780 through 789, see also Sections 500 through 599 and 700 through 769.) In addition to complying with Sections 500 through 599, 700 through 769, and 800 through 899 of these rules, children's alcohol and drug abuse residential care facilities must be approved under IDAPA 16.07.20, "Alcohol and Substance Use Disorder Treatment Programs."~~ ~~(3-30-01)~~(____)

781. DIAGNOSIS.

~~A children's alcohol drug treatment facility shall only admit children with a primary diagnosis of substance abuse, alcohol or drug dependency.~~ ~~(3-30-01)~~

782. TREATMENT FOCUS.

~~A children's alcohol drug abuse residential care facility program shall focus primarily on alcohol drug abuse~~

~~diagnosed problems. A child who is likely to have a withdrawal reaction shall be admitted only after stabilization of withdrawal unless the children's residential care facility has a medically supervised program specifically designed for dealing with withdrawal. A children's alcohol drug abuse residential care facility shall provide individual and group counseling sessions, family treatment services, and alcohol drug education sessions. Care shall include at least twenty one (21) hours a week of treatment program hour's specific to alcohol drug treatment by clinical staff, including planned and structured education, individual and group counseling, family counseling and motivational counseling.~~ (3-30-01)

783. CARE TO CHILDREN AND ADULT RESIDENTS.

~~An alcohol drug treatment facility providing care to both children and adults shall ensure the separation of the two (2) populations, which includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Children and adult residents shall not dine together. Children and adult residents shall not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs unless there is a documented therapeutic reason.~~ (3-30-01)

~~784. STAFF QUALIFICATIONS FOR CHILDREN'S ALCOHOL DRUG ABUSE RESIDENTIAL FACILITY.~~

~~**01. Chief Administrator.** Qualifications of the chief administrator must be verified through written documentation of work experience, education and classroom instruction. The chief administrator must have at least:~~ (3-30-07)

~~**a.** A Master's degree from an accredited college or university in a relevant field and two (2) years of paid full time experience with one (1) year in administration; or~~ (3-30-01)

~~**b.** A Bachelor's degree from an accredited college or university in a relevant field and three (3) years of paid full time experience with one (1) year in administration; and~~ (3-30-01)

~~**c.** Knowledge and demonstrated competence in planning, budget development and other administrative duties.~~ (3-30-01)

~~**02. Clinical Director Qualifications.** A clinical director must have at least:~~ (3-30-07)

~~**a.** A Master's Degree from an accredited college or university in a relevant field and five (5) years of paid full time experience with three (3) years experience in direct alcohol drug abuse treatment;~~ (3-30-01)

~~**b.** Knowledge and experience and demonstrated competence in treatment including client evaluation, counseling techniques, relapse prevention, case management and family systems; and~~ (3-30-01)

~~**c.** Working knowledge of the normal process of child and adolescent growth and development, the effects of alcohol and drugs on a child's growth and development.~~ (3-30-01)

~~**03. Program Supervision Qualifications.** A program supervisor, located at the children's residential care facility must possess at least:~~ (3-30-07)

~~**a.** Five (5) years of full time paid experience in alcohol drug abuse treatment with at least two (2) years in direct treatment; or~~ (3-30-01)

~~**b.** A Master's degree from an accredited college or university and three (3) years of paid full time experience with two (2) years in direct alcohol drug treatment; or~~ (3-30-01)

~~**c.** A Bachelor's degree from an accredited college or university in a relevant field and four (4) years of paid full time experience with two (2) years in direct alcohol drug treatment; and~~ (3-30-01)

~~**d.** One (1) year of paid full time experience in supervision; and~~ (3-30-01)

~~**e.** Knowledge and experience and demonstrated competence in alcohol drug treatment, including~~

~~client evaluation, counseling techniques, relapse prevention, case management and family systems; and (3-30-01)~~

~~f. Working knowledge of the normal process of child and adolescent growth and development, the effects of alcohol drugs on a child's growth, and development. (3-30-01)~~

~~04. Counselor Qualifications. The facility must have a ratio of at least one (1) alcohol drug counselor for every six (6) children in treatment. The alcohol drug counselor must meet the following qualifications: (3-30-07)~~

~~a. Five (5) years of full-time paid experience in alcohol drug abuse treatment with at least two (2) years in direct alcohol drug treatment with children; or (3-30-01)~~

~~b. A Bachelor's degree from an accredited college or university in a relevant field and two (2) years of paid full-time experience with one (1) year in direct alcohol drug abuse treatment with children; and (3-30-01)~~

~~c. Possess certification or licensure by a state or nationally recognized alcohol drug addiction counselor credentialing or certifying organization which requires: (3-30-01)~~

~~i. Knowledge and skill acquired through at least two thousand (2000) hours of a combination of specialized training, education and experience with direct treatment of children; and (3-30-01)~~

~~ii. Thirty (30) hours of classroom instruction in child development; and (3-30-01)~~

~~iii. A working knowledge of family systems as documented through experience, course work or training. (3-30-01)~~

~~d. An alcohol drug counselor hired prior to January 1, 2007, will have three (3) years to complete the minimum requirements as described in Subsections 784.04.a. through 784.04.e. of these rules. A counselor hired on January 1, 2007, or after, must meet all requirements. (3-30-07)~~

~~05. Direct Care Staff Qualifications. Direct care staff must have at least sixteen (16) hours of training in basic alcohol drug abuse issues, addressing dependency, enabling, co-dependency and confidentiality within sixty (60) days of employment. (3-30-07)~~

~~785. AFTER CARE PLAN.~~

~~A children's residential care facility that provides alcohol or drug treatment shall develop a written plan of aftercare services for each child that includes procedures for reintegrating the child into the family and community as appropriate, and outpatient and other continued care services recommended. (3-30-01)~~

~~786. ALCOHOL DRUG TESTING.~~

~~A children's alcohol drug treatment facility shall establish and follow written policies and procedures for drug testing of children in care. (3-30-01)~~

~~787. CONFIDENTIALITY.~~

~~All matters relating to confidentiality of records of children shall comply with 42 CFR Chapter 1, Sub Chapter A, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records." (3-30-01)~~

~~788]. --789. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

~~801. PROGRAM DESCRIPTION (RESERVED).~~

~~Every children's therapeutic outdoor program shall have a detailed, written description of the services and activities provided. All written descriptions shall be factual and accurate and be provided to the parent or guardian of the child prior to entrance into the program. Any program which advertises their children's therapeutic outdoor program in~~

~~any manner shall ensure any advertisement of a children's therapeutic outdoor program must be factual and accurate in its statements and representations.~~ (5-3-03)

802. POLICIES AND PROCEDURES.

In addition to the requirements for policies in Sections 500 through 599 of these rules, a children's therapeutic outdoors program ~~shall~~ **must** have policies and procedures in place addressing the licensing standards ~~set forth~~ **required** in Sections 800 through 899 of these rules. (5-3-03)(____)

803. -- 804. (RESERVED).

805. BASE CAMP REQUIREMENTS.

01. Base Camp. A children's therapeutic outdoor program ~~shall~~ **must** have a base camp or field office in Idaho, here after referred to as a base camp. Base camp at a minimum ~~shall~~ **must**: (5-3-03)(____)

- a. Be staffed and monitored twenty-four (24) hours a day when there are children in care in the base camp or on expeditions; (5-3-03)
- b. Have current staff personnel files; (5-3-03)
- c. Have a current list of the names of staff and children in each field group; (5-3-03)
- d. Have a master map of all activity areas used by the program; (5-3-03)
- e. Have copies of each group's expeditionary route with its schedule and itinerary, copies of which ~~shall be sent~~ **must be provided** to the Department and local law enforcement when requested; (5-3-03)(____)
- f. Maintain current logs of all communications with each field group away from the base camp; and (5-3-03)
- g. Have an emergency response plan that is ~~reviewed~~ **developed by the organization and updated** annually. (5-3-03)(____)

~~02. Participant File Requirements. The base camp shall have program participant files, which include:~~ (5-3-03)

- ~~a. Demographics;~~ (5-3-03)
- ~~b. Eligibility criteria;~~ (5-3-03)
- ~~c. Medical forms; and~~ (5-3-03)
- ~~d. Medical treatment authorization.~~ (5-3-03)

032. Proof of Compliance. A children's therapeutic outdoor program which operates in Idaho ~~shall~~ **must** comply with federal, state, and local regulations and ~~shall~~ **must** maintain proof of compliance at the base camp. (5-3-03)(____)

806. HIGH ADVENTURE REQUIREMENTS.

- 01. High Adventure Activities.** High adventure activities may include the following: (5-3-03)
 - a. Target sports; (5-3-03)
 - b. Aquatics; (5-3-03)
 - c. Hiking; (5-3-03)

- d. Adventure challenge courses; (5-3-03)
- e. Climbing and rappelling; (5-3-03)
- f. Winter camping; (5-3-03)
- g. Soloing; (5-3-03)
- h. Spelunking; (5-3-03)
- i. Expeditioning; (5-3-03)
- j. Swimming in a river, stream, lake, or pond; (5-3-03)
- k. White water activities; and (5-3-03)
- l. Animal related activities. (5-3-03)

02. High Adventure Activity Policy and Procedures. For the high adventure activities identified in Subsection 806.01 of ~~these~~ this rules and for any activity identified by the children's therapeutic outdoor program or the Department as a high adventure activity, there ~~shall~~ must be a written policy and procedure to be followed which include: ~~(5-3-03)~~(____)

- a. Training, experience, and qualifications for leader and staff; (5-3-03)
- b. Specific staff-to-participant ratios appropriate to the activity; (5-3-03)
- c. Classification and limitations for each child's participation; (5-3-03)
- d. Arrangement, maintenance, and inspection of the activity area; (5-3-03)
- e. Appropriate equipment and the inspection and maintenance of the equipment; and (5-3-03)
- f. Safety precautions to reduce the possibility of an accident or injury. (5-3-03)

03. High Adventure Activities Leader. An activity leader who is at least twenty-one (21) years of age and who has documented training and experience in conducting the activity ~~shall~~ must conduct high adventure activities. ~~(5-3-03)~~(____)

807. -- 809. (RESERVED).

810. STAFF QUALIFICATIONS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

Qualifications of staff, interns, and volunteers ~~shall~~ must be verified through written verification of a completed criminal history and background check as required by IDAPA 16.05.06, "Criminal History and Background Checks," work experience, education, and classroom instruction. A program which provides children's therapeutic outdoor programs shall have the following staff: ~~(5-3-03)~~(____)

01. Chief Administrator. A children's therapeutic outdoor program ~~shall~~ must have a chief administrator who is primarily responsible for ensuring that the program is at all times in compliance with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator may also function as the field director. The chief administrator ~~shall~~ must: ~~(5-3-03)~~(____)

- a. Be at least twenty-five (25) years of age; (5-3-03)
- b. Have two (2) years experience working with children and three (3) years experience in staff supervision and administration; and either; (5-3-03)

- i. At the time of appointment, at a minimum, have a Bachelor's degree in a relevant discipline; or (5-3-03)
- ii. Have completed a career development program which includes work related experience, training, or college credits that provide a level of achievement equivalent to the Bachelor's degree; and (5-3-03)
- c. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; and (5-3-03)
- d. Demonstrate or obtain proficiency in the required training criteria ~~set forth~~ described in Subsection 812.02 of ~~these~~ this rules. (5-3-03)(____)
- 02. Field Director.** A children's therapeutic outdoor program ~~shall~~ must have a field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director ~~shall be~~ is responsible for compliance with applicable licensing rules and ensure that staff are familiar with all program policies and procedures. The field director ~~shall~~ must: (5-3-03)(____)
- a. Be at least twenty-five (25) years of age; (5-3-03)
- b. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; (5-3-03)
- c. Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in his personnel file; and (5-3-03)
- d. Demonstrate or obtain proficiency in the required training criteria ~~set forth~~ described in Subsection 812.02 of these rules within ninety (90) days of assuming administrative responsibilities and prior to any provision of direct care to children; and (5-3-03)(____)
- e. Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. (5-3-03)
- 03. Senior Field Staff.** A children's therapeutic outdoor program ~~shall~~ must have a senior field staff working directly with each group of program participants. Each senior field staff ~~shall~~ must: (5-3-03)(____)
- a. Be at least twenty-one (21) years of age; (5-3-03)
- b. Have an associate degree or high school diploma or equivalent with thirty (30) semester hours or forty-five (45) quarter hours of education and training or comparable experience and training in a field related to recreation and adventure activities; (5-3-03)
- c. Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in his personnel file; (5-3-03)
- d. Demonstrate or obtain proficiency in the required training criteria ~~set forth~~ described in Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (5-3-03)(____)
- e. Be Certified to provide cardiopulmonary resuscitation (CPR) and first aid. (5-3-03)
- 04. Field Staff.** Each field staff ~~shall~~ must: (5-3-03)(____)
- a. Be at least twenty-one (21) years of age; (5-3-03)
- b. Have a high school diploma or equivalent; (5-3-03)
- c. Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (5-3-03)(____)

- d. Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. (5-3-03)

05. Program Consultants. A children's therapeutic outdoor program *shall must* have a multidisciplinary staff or program consultants that have knowledge of the physical and emotional demands of the program and be available to program participants upon the recommendation of the field director or senior field staff. At a minimum the team *shall must* consist of: ~~(5-3-03)~~(____)

- a. A licensed physician; and (5-3-03)

b. A licensed treatment professional including either a licensed psychologist, certified social worker, marriage and family counselor, or professional counselor. (5-3-03)

06. Intern. Each intern *shall must*: ~~(5-3-03)~~(____)

- a. Be in a learning program to meet personal educational goals; (5-3-03)

- b. Be at least nineteen (19) years of age; (5-3-03)

- c. Have at least a high school diploma or its equivalent; (5-3-03)

d. Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (5-3-03)

e. Be under the supervision of a licensed therapist if they are in a clinical internship pursuing a professional degree or license. (5-3-03)

07. Volunteers. Each volunteer *shall must*: ~~(5-3-03)~~(____)

- a. Be at least eighteen (18) years of age; (5-3-03)

- b. Be under the direct, constant supervision of qualified staff; and (5-3-03)

c. Have completed the staff training and course work required by Subsection 812.02 of these rules prior to assuming direct care responsibilities. (5-3-03)

811. STAFF HEALTH REQUIREMENTS.

Prior to engaging in any field activities with children, staff, interns, and volunteers *shall must* have a written statement from a licensed physician, physician's assistant or nurse practitioner verifying they are physically fit to perform the duties of the job. A new written physician's statement *shall must* be obtained at least every three (3) years. The medical professional who provides the written statement *shall must* be given a form to use which clearly describes the physical demands for the job and the environmental conditions the person being evaluated is required to work in. The administrator or designee *shall must* review the form and maintain it in the individual's personnel file. ~~At no time shall staff be under the influence of an intoxicating or illegal substance, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program while on duty.~~

~~(5-3-03)~~(____)

812. SKILLS AND TRAINING.

Skills and training for each staff, intern, and volunteer *shall must* be documented and kept on file at the base camp. ~~(5-3-03)~~(____)

01. Skills. Each staff *shall must* demonstrate specific skills to the administrator or designee, prior to assuming field supervision. The skill assessment procedures *shall must* be approved by the *Department agency* and results of the assessment *shall must* be documented and kept on file at the base camp. ~~(5-3-03)~~(____)

02. Training. Training must supplement any deficiencies. The curriculum *shall will* include at a minimum: ~~(5-3-03)~~(____)

- a. Four (4) days of practicum field training; (5-3-03)
- b. Supervision of program participants; (5-3-03)
- c. Water, food, and shelter procurement, preparation and conservation; (5-3-03)
- d. Low impact wilderness expedition and environmental conservation skills and procedures; (5-3-03)
- e. Child management including containment control, safety, conflict resolution, and behavior management; (5-3-03)
- f. Instruction in safety procedures and safe equipment use of fuel, fire, and life protection; (5-3-03)
- g. Sanitation procedures related to food, water, and waste; (5-3-03)
- h. Special instruction for staff who conduct and staff who supervise high adventure activities; (5-3-03)
- i. Wilderness medicine, including health issues related to acclimation, exposure to the environment, and environmental elements; (5-3-03)
- j. First aid kit contents and use; (5-3-03)
- k. Navigation skills including map and compass use, contour and celestial navigation, and Global Positioning System (GPS); (5-3-03)
- l. Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations; (5-3-03)
- m. Report writing, including development and maintenance of logs and journals; (5-3-03)
- n. Federal, state, and local regulations including Idaho State Department of Health and Welfare, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and State and Federal land use agencies; and (5-3-03)
- o. Ongoing training for direct care staff to upgrade their skills, including mandatory training to maintain skills, certifications and licenses. (5-3-03)

813. STAFF RATIOS AND GROUP SIZE.

- 01. Staffing Ratio.** Each group of children ~~shall~~ must be staffed as follows: (~~5-3-03~~)(____)
 - a. One (1) staff for every four (4) children or fraction thereof, but where there are less than four (4) children there ~~shall~~ must be at least two (2) staff; and (~~5-3-03~~)(____)
 - b. Where the gender of a group is mixed, there ~~shall~~ must be at least one (1) female staff and one (1) male staff member. (~~5-3-03~~)(____)
- 02. Interns and Volunteers.** Interns and volunteers ~~shall~~ must never be counted in the staff ratio and ~~shall~~ never have sole responsibility to supervise the youth. (~~5-3-03~~)(____)

814. STAFF USE OF ALCOHOL OR CONTROLLED SUBSTANCES PROHIBITED.
Staff engaging in field activities, whether on or off duty, are prohibited from using alcohol or controlled substances, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program. (____)

814~~5~~. -- 820. (RESERVED).

821. ASSESSMENTS.

Preadmission and subsequent assessments ~~shall~~ must be performed ~~on~~ for each child. (5-3-03)()

01. Preadmission Assessment. Admission assessments ~~shall~~ must be done for each child by a qualified treatment professional familiar with the children's therapeutic outdoor program prior to enrollment. This ~~shall~~ must include a review of the child's social and psychological history. (5-3-03)()

02. Subsequent Assessments. Subsequent assessments ~~shall~~ must be done at least one (1) week before the child leaves for the field portion of the program away from the main base of operations. The assessment ~~shall~~ must include: (5-3-03)()

a. An interview with the child by the senior field staff assigned to the child's field experience prior to entrance into the field; and (5-3-03)

b. A review of the child's health history and physical examination by a medically trained field staff assigned to the child's field experience. (5-3-03)

03. Psychological Problems. For a child with a history of psychological problems, a psychological evaluation ~~shall~~ must be obtained and reviewed by the multidisciplinary team prior to the child's entrance into the field portion of the program. (5-3-03)()

822. PHYSICAL EXAMINATION.

A child ~~shall~~ must have a physical examination within thirty (30) days prior to entrance into the children's therapeutic outdoor program. (5-3-03)()

01. Standard Physical Examination Requirements. The result of the physical exam ~~shall~~ must be recorded on a standard form provided by the program. The form ~~shall~~ must clearly document the type and extent of physical activity in which the child will be engaged. The exam ~~shall~~ must be completed by a licensed physician, physician's assistant, or nurse practitioner, who signs the form, and ~~shall~~ includes: (5-3-03)()

~~a.~~ *A Complete Blood Count (CBC);* (5-3-03)

~~b.a.~~ A urinalysis; (5-3-03)

~~e.~~ *An electrolyte screen;* (5-3-03)

~~d.b.~~ A pregnancy test for each female participant; (5-3-03)

~~ec.~~ A physical assessment to determine fitness given the climate and temperature in which the child will be participating, and the child's age, weight, and physical condition; and (5-3-03)

~~fd.~~ A determination whether detoxification is indicated for the child prior to entrance into the field portion of the program. (5-3-03)

02. Prior Physical Examination. A physical examination of a child who is coming into a children's therapeutic outdoor program directly from a children's residential care facility, ~~shall~~ must be acceptable provided the physical examination is current as required by Section 571 of these rules, meets the criteria ~~set forth provided in Subsection 822.01 of this rule, and~~ occurred prior to entrance into the field, ~~and includes a new CBC and electrolyte screen;~~ (5-3-03)()

03. Medical Special Needs. If a child is currently taking or has been taking prescribed medication within the past six (6) months prior to placement in the children's therapeutic outdoor program, a specific notation must be made on the physical examination form by the medical professional. The medical professional must also include approval for the child's participation in an outdoor, high impact environment and a description of any possible special needs due to the use of medication in said environment. (5-3-03)

~~04. **Sickle Cell Anemia and Thalassemia.** If a child is in a risk group for Sickle Cell Anemia or Thalassemia, written approval must be included on the physical examination form by the medical professional. The examination form must also include written approval by the medical professional for the child's participation in strenuous exercise, exposure to cold temperatures and participation in activities that may occur in altitudes over five thousand (5000) feet. (5-3-03)~~

054. Physical Examination Availability. The physical examination form *shall* must be copied and the original maintained at the base camp and a copy carried by staff in a waterproof container when the child is away from the base camp. The physical examination form *shall* must be maintained in a manner that assures the confidentiality of all medical and identifying information. (5-3-03)(____)

823. GROUPING BY AGE.

Children *shall* must be assigned to groups according to age and ability. (5-3-03)(____)

01. Age. A child *shall* must be at least eleven (11) years of age and less than eighteen (18) years of age unless the individual meets the definition of continued care as *defined provided* in ~~Subsection 006.11~~ Sections 010, 530, and 531 of these rules. (5-3-03)(____)

02. Placement. A licensed treatment professional familiar with the children's therapeutic outdoor program *shall* must determine whether children eleven (11) years of age through thirteen (13) years of age are to be placed in a younger program group or in an older program group. The decision *shall* must be based upon the child's needs and level of maturity, both physical and mental. The basis for the decision *shall* must be documented in the child's record. (5-3-03)(____)

824. EXPEDITIONS.

Expeditions include any excursion that will take the children away from the base camp. (5-3-03)

01. Written Description. There *shall* must be a written description of expedition programming, approved by the organization's governing body and ~~provided to the Department~~ signed by the Chief Administrator. The expedition *shall* must not expose children to unreasonable risk. (5-3-03)(____)

02. Group Size. For an expedition group, the number of participants *shall* must not exceed fifteen (15) children. (5-3-03)(____)

03. Wilderness First Responder (WFR). At least one (1) staff member per expedition group *shall* must have a current WFR Certificate. (5-3-03)(____)

04. Global Positioning System (GPS). Each group *shall* must be equipped with a GPS system for use on all expeditions. (5-3-03)(____)

05. Staff Briefing. Staff *shall* must be briefed prior to any expedition. The briefing at a minimum *shall* must include: (5-3-03)(____)

a. The expedition route, terrain, time schedule, weather forecast and any potential hazards; (5-3-03)

b. Any procedures unique to that expedition; and (5-3-03)

c. Participant backgrounds and any potential problems. (5-3-03)

06. Expedition Evaluations. Each expedition *shall* must be evaluated at least every seven (7) days, either in person ~~or through Department approved procedures~~ by a field director ~~or as detailed in the organization's approved policies and procedures~~. If the expedition is longer in duration than three (3) weeks, on-site visits by a field director must occur at minimum increments of three (3) weeks. (5-3-03)(____)

07. Staff De-Briefing. Staff *shall* must be de-briefed after returning from any expedition. (5-3-03)(____)

08. Participant De-Briefing. Children *shall must* be de-briefed after returning from any expedition. The de-briefing *shall must* include a written summary of the child's participation and progress achieved and be retained in the child's record. (5-3-03)(____)

09. Expedition Summary. Results of the evaluation of the conditions of the children, interactions of children and staff, briefings, de-briefings, and compliance with program policies and procedures *shall must* be summarized, ~~and~~ documented, ~~and records retained for seven (7) years.~~ (5-3-03)(____)

825. SAFETY.

Each children's therapeutic outdoor program *shall must* have appropriate safety procedures and equipment. (5-3-03)(____)

01. Environmental Hazards. Each program participant *shall must* have instruction on environmental hazards and precautions. (5-3-03)(____)

02. First Aid Kit. There *shall must* be a first aid kit with sufficient supplies available at all times. The first aid kit *shall must* at a minimum: (5-3-03)

a. Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used; (5-3-03)

b. Be reviewed with new staff for contents and use; (5-3-03)

c. Be reviewed at least annually with all staff for contents and use; and (5-3-03)

d. Be inventoried after each expedition and restocked as needed. (5-3-03)

826. COMMUNICATIONS.

01. Communication Support System. There *shall must* be a communication system that includes: (5-3-03)(____)

a. A reliable two (2) way radio communication with extra charged battery packs for each group away from the base camp; and (5-3-03)

b. A back up plan for re-establishing communication to be implemented in the event regular communication fails. (5-3-03)

02. Communication Requirements. There *shall must* be daily verbal communication between each field group and the base camp unless alternative arrangements have been made and documented in a communications log maintained at the base camp and *shall must* never exceed seventy-two (72) hours. (5-3-03)(____)

03. Emergencies. The base camp support personnel *shall must* have immediate access to emergency telephone numbers, contact personnel and procedures for an emergency evacuation or field incident requiring emergency medical support. (5-3-03)(____)

827. EMERGENCY PLAN.

A children's therapeutic outdoor program *shall must* have and follow a written emergency plan and specific procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, and missing children. (5-3-03)(____)

01. Written Plan. The plan *shall must* at a minimum include: (5-3-03)(____)

a. Designation of authority and staff assignments; (5-3-03)

b. Transportation and relocation of program participants when necessary; (5-3-03)

- c. Instruction to all participants on how to respond in the event of an emergency; (5-3-03)
 - d. Notification to the base camp of the nature of the emergency and an accounting of each participant's location and status; (5-3-03)
 - e. Supervision of program participants after an evacuation or a relocation; and (5-3-03)
 - f. Arrangements for medical care and notification of a child's physician and identified parent or guardian. (5-3-03)
02. **Emergency Drills.** Emergency plan drills ~~shall~~ must be ~~held~~ conducted and recorded at least annually. (5-3-03)

828. EXPEDITION AND HIKING LIMIT REQUIREMENTS.

01. **Physical Capability.** Hiking ~~shall~~ must not exceed the physical capability of the weakest member of the group. (5-3-03)(____)
02. **Maximum Temperature.** There ~~shall~~ must be no hiking when the temperature is above ninety-five (95) degrees Fahrenheit. (5-3-03)(____)
03. **Inability or Refusal to Hike.** When a child cannot or refuses to hike, the group ~~shall~~ cannot continue hiking unless it is necessary for obvious safety reasons, and a contingency plan, based on preapproved policies and procedures, ~~shall~~ must be used. The contingency plan ~~shall~~ must ensure there is staff coverage for each group, if the group is split, and that communication between the groups is maintained. (5-3-03)(____)
04. **Maps and Itinerary.** Copies of map routes, anticipated schedules including arrival and departure times ~~shall~~ must be maintained by the field staff and base camp when a group is on an outing away from the base camp. (5-3-03)(____)
05. **Acclimation to Environment.** Staff ~~shall~~ must closely monitor children for acclimation to the temperature, climate, altitude, environment and situation. (5-3-03)(____)
06. **Log.** There ~~shall~~ must be a common written log, ~~which~~ that is signed and dated by the participating staff immediately following the termination of an outing away from the base camp. The log ~~shall~~ must contain information on health problems, accidents, injuries, medications used, behavioral problems, and unusual occurrences. The log ~~shall~~ must be recorded in permanent ink with any corrections initialed and dated. (5-3-03)(____)

829. WATER REQUIREMENTS.

01. **Water.** Children ~~shall~~ must have access to potable water while hiking. At a minimum the program ~~shall~~ must: (5-3-03)(____)
- a. Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one hundred fifty (150) pounds, then one (1) additional quart of potable water will be provided for every twenty-five (25) pounds of body weight over one hundred fifty (150) pounds; and (5-3-03)
 - b. Encourage each child to consume at least three (3) quarts of potable water per day. (5-3-03)
02. **Water for Cooling.** When the temperature is eighty (80) degrees Fahrenheit or higher, adequate water ~~shall~~ must be available for coating each child's body for the purpose of cooling when needed. (5-3-03)(____)
03. **Water Caches.** When water caches are used, each water cache ~~shall~~ must be placed at predetermined sites prior to the day the group leaves the camp. Field staff ~~shall~~ must verify the water cache locations before the group leaves the base camp each day. (5-3-03)(____)

04. Aerial Water Drops. An expedition group ~~shall~~ must not depend on aerial drops for its water supply. Aerial water drops ~~shall~~ must be used only in the event of an emergency. (5-3-03)(____)

05. Water From a Natural Source. Water from a natural source used for drinking or cooking ~~shall~~ must be treated to eliminate health hazards. (5-3-03)(____)

06. Electrolyte Replacement. Each group ~~shall~~ must have a supply of electrolyte replacement, quantities to be determined by group size and environment conditions. (5-3-03)(____)

830. NUTRITIONAL AND SANITARY REQUIREMENTS.

01. Menu. There ~~shall~~ must be a written menu approved annually by a professional nutritionist or dietitian with knowledge of program activity levels and environmental factors. The menu ~~shall~~ will list the necessary or recommended food supplies and caloric intake for each group. The current menu ~~shall~~ must be readily available and any change or substitution ~~shall be~~ noted on the menu. Menus ~~shall~~ must be maintained on file for six (6) months. (5-3-03)(____)

02. Food. Each child ~~shall~~ must be provided a sufficient amount of food and calories based on the approved menu. The food provided ~~shall~~ must include fresh fruit and vegetables at least twice a week. (5-3-03)(____)

03. Special Needs. The menu ~~shall~~ must take into consideration a child's special nutritional needs, including food allergies or religious restrictions. (5-3-03)(____)

04. Fasting. There ~~shall~~ must be no imposed food fasting. (5-3-03)(____)

05. Cleansing of Hands. Cleansing of hands ~~shall occur~~ is required after each latrine use and prior to food preparation and food consumption. (5-3-03)(____)

831. -- 834. (RESERVED).

835. HEALTH CARE.

01. First Aid. First aid treatment ~~shall~~ must be provided in as prompt a manner as the location and circumstances allow. (5-3-03)(____)

02. Field Treatment. A child with an illness or physical complaint needing care or treatment beyond what can be provided in the field ~~shall~~ must be immediately transported to appropriate medical care. (5-3-03)(____)

03. Documentation. Complaints or reports by a child of illness and injuries ~~shall~~ must be recorded in the daily log along with any treatment provided. (5-3-03)(____)

04. Negative Consequences. There ~~shall~~ must be no negative consequences imposed on a child for reporting an injury or illness or for requesting to see a health care professional. (5-3-03)(____)

05. Daily Physical Assessment. Children's hydration, skin condition, extremities, and general physical condition ~~shall~~ must be evaluated and recorded by field staff in the daily log on a daily basis. (5-3-03)(____)

06. Weekly Physical Assessment. At least every seven (7) days, each child's physical condition ~~shall~~ must be assessed by a Wilderness First Responder (WFR), an Emergency Medical Technician (EMT), or a qualified medical professional. The results of the assessment ~~shall~~ must be recorded in the daily log and ~~shall~~ must at a minimum include:

- a. Blood pressure; (5-3-03)
- b. Heart rate; (5-3-03)
- c. Condition of extremities; (5-3-03)

- d. Condition of skin; (5-3-03)
- e. Hydration level; (5-3-03)
- f. Allergies, if any; (5-3-03)
- g. General physical condition; and (5-3-03)
- h. Provision of appropriate medical treatment if needed. (5-3-03)

836. MEDICATION STORAGE AND ADMINISTRATION.

A children's therapeutic outdoor program ~~shall~~ must have and follow policies and procedures on the storage, administration, and disposal of prescription and nonprescription medication. (5-3-03)(____)

01. Medication Storage and Administration. Prescription and over-the-counter medication must be stored under lock and key safeguarded from children. For medications taken on field outings, all medication ~~shall~~ must be in the possession of a staff member qualified to administer medications. (5-3-03)(____)

02. Trained Staff. Staff who administer and assist with self-administration of medications ~~shall~~ must be trained by a qualified medical professional. (5-3-03)(____)

03. Prescription Medication. All prescription medications ~~shall~~ must be issued by a qualified medical professional's valid order that includes the dosage to be given. (5-3-03)(____)

04. Psychotropic Medication. The administration of psychotropic medication ~~shall be~~ is prohibited unless a qualified medical professional determines that the medication is clinically indicated, ~~and~~ ~~it~~ Under no circumstances ~~shall~~ will psychotropic medication be administered for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. (5-3-03)(____)

05. Documentation. There ~~shall~~ must be a written record of all medications given to the child. The record ~~shall~~ must include: (5-3-03)(____)

- a. The child's name; (5-3-03)
- b. The name of the medication; (5-3-03)
- c. The date and time the medication was given; (5-3-03)
- d. The dosage given and whether the child did or did not take the medication; and (5-3-03)
- e. The person who administered or assisted in self-administration of the medication. (5-3-03)

06. Medication Changes. Prescribed medication ~~shall~~ must not be stopped or changed in dosage or administration without consulting with the prescribing physician. If the prescribing physician is not available, a qualified medical professional must be consulted. Results of the consultation and any resulting medication changes must be recorded in the child's record. (5-3-03)(____)

07. Disposal of Unused Medication. All unused and expired medication must be disposed of so it is not available to anyone. When medication is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. (5-3-03)

837. -- 839. (RESERVED).

840. PARTICIPANT CLOTHING, EQUIPMENT AND SUPPLIES.

Each program participant ~~shall~~ must have appropriate clothing, equipment and supplies appropriate for the types of activities and for the weather conditions likely to be encountered. (5-3-03)(____)

01. Clothing, Equipment, and Supplies Requirements. Clothing, equipment and supplies ~~shall~~ include at a minimum: ~~(5-3-03)(_____)~~

- a. Sunscreen; (5-3-03)
- b. Insect repellent; (5-3-03)
- c. A commercially available backpack or the materials to construct a safe backpack or bedroll; (5-3-03)
- d. Personal hygiene items necessary for cleansing; (5-3-03)
- e. Appropriate feminine hygiene supplies; (5-3-03)
- f. Wool blankets or an appropriate sleeping bag and a tarp or poncho ~~in the event~~ when the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher; ~~(5-3-03)(_____)~~
- g. Shelter, appropriate sleeping bag and ground pad when the average night time temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower; (5-3-03)
- h. Clothing appropriate for temperature changes generally expected for the area; (5-3-03)
- i. Each child ~~shall~~ must be provided a clean change of clothing at least once a week or an opportunity to wash his clothes at least once a week; and ~~(5-3-03)(_____)~~
- j. Each child ~~shall~~ must be provided clean undergarments and a means to clean his body at least twice a week. Additional clean undergarments ~~shall~~ must be provided to a child as may be needed for health or sanitary reasons. ~~(5-3-03)(_____)~~

02. Denial of Clothing, Equipment, and Supplies. Appropriate clothing, equipment, and supplies ~~shall~~ must not be removed, denied, or made unavailable for any reason. ~~(5-3-03)(_____)~~

841. CONTRABAND.

A children's therapeutic outdoor program ~~shall~~ must define prohibited contraband in a written policy. ~~(5-3-03)(_____)~~

01. Confiscation. Contraband found in the possession of children or staff ~~shall~~ must be confiscated by staff and secured in a location inaccessible to children. ~~(5-3-03)(_____)~~

02. Law Enforcement Notification. Local law enforcement ~~shall~~ must be notified when illegal contraband is confiscated. ~~(5-3-03)(_____)~~

03. Disposal. It ~~shall be~~ is the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the program's contraband policy. When contraband is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. ~~(5-3-03)(_____)~~

842. SEARCHES.

If a children's therapeutic outdoor program conducts searches of children, staff or visitors, it ~~shall~~ must have and follow written policies and procedures. Searches ~~shall~~ must be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with Section 841 of these rules. All searches ~~shall~~ must be documented, including the reasons for the search, the persons conducting the search, and any results. The policies and procedures at a minimum ~~shall require:~~ must include those in Subsections 842.01 and 842.02 of this rule. ~~(5-3-03)(_____)~~

01. Pat Down Searches. Pat down searches of children may only be conducted when the therapeutic outdoor program feels it is necessary to discourage the introduction of contraband or to promote the safety of staff

and other children. Pat down searches ~~shall~~ must be conducted as follows: (5-3-03)(____)

- a. Staff ~~shall~~ must be trained in proper search techniques; (5-3-03)(____)
- b. There ~~shall~~ must be a staff member of the same sex as the child being searched and ~~shall be in~~ the presence of another staff member; (5-3-03)(____)
- c. The child ~~shall~~ must be told he is about to be searched; (5-3-03)(____)
- d. The child ~~shall~~ must remove all outer clothing (gloves, coat, hat, and shoes) and empty all pockets; (5-3-03)(____)
- e. The staff person ~~shall~~ must pat the clothing of the child using only enough contact to conduct an appropriate search; (5-3-03)(____)
- f. If the staff detects anything unusual, the child ~~shall~~ will be asked to identify the item and appropriate steps ~~should be~~ taken to remove the item for inspection; (5-3-03)(____)
- g. If the child refuses to comply, the administrator or designee ~~shall~~ must be notified immediately and ~~be is~~ responsible for resolving the matter; and (5-3-03)(____)
- h. All searches ~~shall~~ must be documented in writing. (5-3-03)(____)

02. Strip Searches are Prohibited. ~~Strip searches may only be conducted after a pat down search whenever there is reason to believe that contraband may be found through additional searches. Only the administrator or his designee shall authorize strip searches. Strip searches are to be conducted as follows:~~

- ~~a. Staff shall be trained in the proper search techniques and staff shall not touch the child;~~ (5-3-03)
- ~~b. The child shall be searched by two (2) staff members of the same sex as the child who is searched;~~ (5-3-03)
- ~~c. The search shall be performed in an area that ensures the privacy of the child;~~ (5-3-03)
- ~~d. The child shall remove clothing and move away from the articles;~~ (5-3-03)
- ~~e. The staff shall require the child to run his hands through his hair;~~ (5-3-03)
- ~~f. Staff shall search the clothing and return it to the child; and~~ (5-3-03)

g03. Body Cavity Searches are Prohibited ~~shall not be conducted by children's therapeutic outdoor program staff.~~ (5-3-03)(____)

843. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's therapeutic outdoor program ~~shall~~ must have and follow a behavioral management and discipline policy which identifies appropriate methods of behavioral management and ensures that any discipline is positive and consistent. Individual behavioral management ~~shall~~ must be based on an assessment of the child's needs, behavior, and stage of development with the goal of promoting self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy ~~shall require the~~ must include the concept and application of least restrictive effective treatment and positive reinforcement and ~~shall~~ prohibit the following: (5-3-03)(____)

- a. Physical force, except as permitted under Section 573 of these rules; (5-3-03)
- b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting,

kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into a stationary object; (5-3-03)

- c. The placing of anything in or over a child's mouth; (5-3-03)
- d. Cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort; (5-3-03)
- e. Verbal abuse, ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; (5-3-03)
- f. Locked seclusion as described under Section 764 of these rules; (5-3-03)
- g. Mechanical restraint as described under Section 766 of these rules; (5-3-03)
- h. Alternative forms of restraint as described in Section 767 of these rules; (5-3-03)
- i. Withholding of necessary food, clothing, shelter, bedding, rest, medical care, and toilet use; (5-3-03)
- j. Denial of visits or communication with the child's family except as specified in the child's plan or court order; and (5-3-03)
- k. Disciplining a child or group of children for actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised by staff. (5-3-03)

02. Documentation. An organization ~~shall~~ **must** document that the policy has been provided to a child and is made available to parents, guardians, and referral sources. ~~(5-3-03)~~(____)

844. TIME-OUT.

A children's therapeutic outdoor program ~~shall~~ **must** have and follow written policy and procedures governing the appropriate use of time-out ~~that shall~~ **as required** in Subsections 844.01 through 844.06 of this rule. ~~(5-3-03)~~(____)

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. (5-3-03)

02. Duration. Time duration ~~shall~~ **cannot** exceed sixty (60) consecutive minutes. ~~(5-3-03)~~(____)

03. Observation. A staff ~~has been~~ **person is** designated to be responsible for visually observing the child at random intervals at least every fifteen (15) minutes. ~~(5-3-03)~~(____)

04. Documentation. A written description in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the child being placed in time-out, and staff's attempts to help the child avoid time-out, and observations by staff maintained in the child's file. (5-3-03)

05. Reintroduction to the Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. (5-3-03)

06. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee to determine the suitability of the child remaining in the program, whether modification to the child's plan is warranted, whether staff need additional training in alternative therapeutic behavior management techniques, and to ensure that appropriate action is taken as a result of the review. (5-3-03)

845. WORK.

Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work ~~shall~~ cannot be ~~to~~ used as a substitute for paid labor. (5-3-03)(____)

846. ANIMALS AND PETS.

Animals, including pets, ~~shall~~ must be free from disease and cared for in a safe and clean manner. All domestic animals and pets ~~shall~~ must be vaccinated against rabies. Documentation of the vaccination against rabies ~~shall~~ will be kept on file at the base camp. (5-3-03)(____)

847. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a therapeutic outdoor program ~~shall~~ must be in a vehicle that is: (5-3-03)(____)

- a. Properly registered; (5-3-03)
- b. Covered by insurance for personal injury and liability; (5-3-03)
- c. Driven by a person with a valid driver's license for the type of vehicle and who complies with all applicable traffic laws while transporting children; (5-3-03)
- d. Maintained in a safe condition; (5-3-03)
- e. Equipped with a red triangle reflector device for use in an emergency; (5-3-03)
- f. Equipped with a first aid kit; and (5-3-03)
- g. Equipped with a fire extinguisher that is properly secured and not readily available to children. (5-3-03)

02. Proper Seating of Children and Adults. The driver and all passengers ~~shall~~ must ride in a vehicle manufactured seat; and properly ~~using~~ use a passenger restraint device. (5-3-03)(____)

848. FIREARMS.

Firearms ~~shall~~ are not to be allowed in children's therapeutic outdoor programs. (5-3-03)(____)

849. (RESERVED).

850. PROGRAM SUMMARY.

The organization ~~shall~~ must provide the child's parent or guardian a written summary of the child's participation and progress upon completion of the therapeutic outdoor program. The parents or guardian and child ~~shall~~ must be given the opportunity and ~~be~~ encouraged to submit a written evaluation of the therapeutic outdoor experience. (5-3-03)(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

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

The pending rule is being adopted as proposed. The changes to this rule align methodologies for calculating self-employment income with other Department rules and added self employment as a qualifying activity to receive ICCP benefits. The complete text of the proposed rule was published in the June 4, 2008, Idaho Administrative Bulletin, Vol. 08-6, pages 67 through 70.

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 has no anticipated fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 21st day of July, 2008.

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

DOCKET NO. 16-0612-0801 - 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 08-6, June 4, 2008, pages 67 through 70.

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

**16.06.14 - RULES GOVERNING THE PREVENTION OF MINORS'
ACCESS TO TOBACCO PRODUCTS**

DOCKET NO. 16-0614-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-5704, Idaho Code.

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

Tuesday - September 16, 2008 - 6:00 p.m. to 9:00 p.m.

**BEST WESTERN VISTA INN
SIERRA ROOM
2645 Airport Way, Boise, ID**

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

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

This chapter is being repealed and rewritten to align it with the other new chapters in the new Division of Behavioral Health. Amendments to this rule are also being made in the rewrite of this chapter that is being published in this Bulletin under Docket No. 16-0725-0801.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the repeal of this chapter is being done to comply with Executive Order 2006-18.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Terry Pappin at (208) 334-6542.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 22nd day of July, 2008.

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

IDAPA 16.06.14 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.07.25 - PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS
DOCKET NO. 16-0725-0801 (NEW CHAPTER)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-5704, Idaho Code, and in accordance with Executive Order 2006-18.

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

Tuesday - September 16, 2008 - 6:00 p.m. to 9:00 p.m.

BEST WESTERN VISTA INN
SIERRA ROOM
2645 Airport Way, Boise, ID

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

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

This chapter of rule is a rewrite of the existing chapter found in IDAPA 16.06.14, "Prevention of Minors' Access to Tobacco Products." The chapter is being assigned a new IDAPA number along with grammatical and formatting revisions. The major difference in this rewrite and the former chapter is the addition of language that defines when a new permit is issued, when a permit may be closed, and when a permit may be revoked.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking ensures that individuals who avoid following the current rule will need to do so. This rulemaking also aligns the rule to meet the intent of Executive Order 2006-18.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Terry Pappin at (208) 334-6542.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 1st day of August, 2008.

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

**IDAPA 16
TITLE 07
CHAPTER 25**

16.07.25 - PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS

000. LEGAL AUTHORITY.

Under Section 39-5704, Idaho Code, the Department of Health and Welfare is authorized to promulgate rules in compliance with Title 39, Chapter 57 for the prevention of minors' access to tobacco products. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter of rule is IDAPA 16.07.25, "Prevention of Minors' Access to Tobacco Products." ()

02. Scope. This rule implements provisions of Section 39-5701 et seq., Idaho Code. The Code defines the following: ()

- a.** Possession, distribution or use of tobacco products by a minor; ()
- b.** Permit process for tobacco product retailers; ()
- c.** Sale or distribution of tobacco products to a minor; ()
- d.** Vendor assisted sales; ()
- e.** Opened packages and samples; ()
- f.** Civil and criminal penalties for sales violations; and ()
- g.** Conduct of enforcement actions. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The documents are available for public inspection and copying at the location identified under Subsection 005.03 of these rules and in accordance with Section 006 of these rules. ()

003. ADMINISTRATIVE APPEALS.

All administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference. ()

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

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

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

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

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov/>. ()

06. Tobacco Permit Internet Website. The Division of Behavioral Health's tobacco permit internet website is found at www.tobacopermits.com/idaho. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

Any use or disclosure of Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

The terms used in this rule are defined as follows: ()

01. Business. Any company, partnership, firm, sole proprietorship, association, corporation, organization, or other legal entity, or a representative of the foregoing entities that sells or distributes tobacco products. Wholesalers' or manufacturers' representatives in the course of their employment are not included in the scope of these rules. ()

02. Delivery Sale. The distribution of tobacco products to a consumer in a state where either: ()

a. The individual submits the order for a purchase of tobacco products by a telephone call or other voice transmission method; data transfer via computer networks, including the internet and other online services; or by use of a facsimile machine transmission or use of the mails; or ()

b. When tobacco products are delivered by use of the mails or a delivery service. ()

03. Delivery Service. Any person who is engaged in the commercial delivery of letters, packages, or other containers. This includes permittees taking a delivery sale order and delivers the tobacco products without using a third party delivery service. ()

04. Department. The Department of Health and Welfare (DHW) or its duly authorized representative. ()

05. Direct Sale. Any face to face, or in person sale, of a tobacco product by a permittee or his employee to an individual. ()

06. Distribute. To give, deliver, sell, offer to give, offer to deliver, offer to sell or cause any person to do the same or hire any person to do the same. ()

07. Effective Training. Training must include, at a minimum, the provisions of the law regarding minors' access to tobacco products as indicated on the suggested Employee Training form which is included with the permit provided by the Department and found in Appendix A of these rules. Such training will be presumed effective for purposes of civil penalty actions in the first, second, and third violations within a two (2) year period. ()

08. Evidence of Effective Training. Documentation provided by a permittee in response to a violation of this chapter clearly identifying that the permittee had a training program meeting the definition for effective training in place at the time of the violation and had on file a form signed by the employee prior to the violation stating understanding of the tobacco laws dealing with minors and the unlawful purchase of tobacco. ()

- 09. Location.** The street address and building in which the tobacco products are sold. ()
- 10. Minor.** A person under eighteen (18) years of age. ()
- 11. Permit.** A permit issued by the Department for the sale or distribution of tobacco products. A permit must include endorsements to indicate the type of service offered by the permittee. Where the permittee uses more than one (1) method for sale or delivery of a tobacco product, the permit must reflect the required endorsement for each method. ()
- 12. Permit Endorsement.** An endorsement identifies a sale or delivery method used by a permittee to sell tobacco products. There are three (3) types of endorsements that may be included on a permit. The three (3) endorsement types are: ()
- a.** Delivery Sales; ()
 - b.** Delivery Service; and ()
 - c.** Direct Sales. ()
- 13. Permittee.** The holder of a valid permit for the sale or distribution of tobacco products. ()
- 14. Photographic Identification.** In all cases the identification must bear a photograph and a date of birth. Verification is not required by these rules if the buyer is known to the seller to be age eighteen (18) or older. Types of identification include: ()
- a.** State, district, territorial, possession, provincial, national or other equivalent government driver's license; or ()
 - b.** State identification card or military identification card; or ()
 - c.** A valid passport. ()
- 15. Purchaser.** An individual who seeks to buy or who buys a tobacco product. ()
- 16. Random Unannounced Inspection.** An inspection of business by a law enforcement agency or by the Department, with or without the assistance of a minor, to monitor compliance of this chapter. ()
- a.** Random. At any time, without a schedule or frequency. ()
 - b.** Unannounced. Without previous notification. ()
- 17. Retail Sales Minor Exempt Permit.** A permit that is issued to retail locations whose revenues from the sale of alcoholic beverages for onsite consumption are at least fifty-five percent (55%) of total revenues, or whose products and services are primarily obscene, pornographic, profane or sexually oriented. A permittee issued this type of permit is exempt from minor assisted inspections where minors are not allowed on the premises and such prohibition is clearly posted at all entrances. ()
- 18. Seller.** The person who physically sells or distributes tobacco products. ()
- 19. Tobacco Product.** Any substance that contains tobacco or a product used to smoke tobacco including: ()
- a.** Cigarettes; ()
 - b.** Cigars; ()
 - c.** Pipes; ()

- d. Snuff; ()
 - e. Smoking Tobacco; ()
 - f. Tobacco Paper; ()
 - g. Hookah Water Pipes; and ()
 - h. Smokeless Tobacco. ()
- 20. Vending Machine.** Any mechanical, electronic or other similar device which, upon the insertion of tokens, money or any other form of payment, dispenses tobacco products. ()
- 21. Vendor Assisted Sales.** Any sale or distribution in which the customer has no access to the product except through the assistance of the seller. The seller must physically dispense the tobacco product to the purchaser. ()
- 22. Violation.** An action contrary to Title 39, Chapter 57, Idaho Code, or IDAPA 16.07.25, "Prevention of Minors' Access to Tobacco Products." ()
- 23. Without a Permit.** A business that has failed to obtain a permit or a business whose permit is suspended or revoked. ()
- 011. -- 019. (RESERVED).**
- 020. APPLICATION FOR PERMIT.**
All businesses which sell or distribute tobacco products to the public must obtain a permit issued annually by the Department of Health and Welfare. ()
- 01. Where to Obtain an Application for Permit.** A hard-copy application can be obtained, at no cost to the applicant, from the Department of Health and Welfare, Division of Behavioral Health, PO Box 83720, Boise, Idaho 83720-0036. A permit may also be obtained, at no cost to the applicant, via the internet. The internet website is found at www.tobaccopermits.com/idaho/. ()
- 02. Permits.** A separate permit must be obtained for each business location. The permit is non-transferable to another person, business, or location. The applicant must request endorsements for each method of sale or delivery it uses. If a place of business sells or distributes tobacco by more than one (1) method, it must have an endorsement for each type. ()
- a. Issuance of a Permit. A permit may be issued when a new tobacco retail outlet has been established, when a currently permitted business is sold to new owners, or when a currently permitted business is moved to a different physical location. Permits may be issued to tobacco retailers established in a permanent location. Permits may not be issued for a retailer doing business in a temporary location. ()
 - b. Closure of a Permit. A permit may be closed when the permittee closes the business, no longer sells tobacco products, moves to a different physical location or sells the business to a new owner. ()
 - c. Revocation of a Permit. A permit may be revoked by the Department of Health and Welfare when:
 - i. It is determined a new permit was fraudulently obtained to avoid penalties accrued on an existing permit. ()
 - ii. The holder of a permit, suspended as established in Section 39-5708(5), has failed to provide an effective training plan to the Department. ()

- e. Temporary Permit. Temporary permits are not allowed under 39-5704, Idaho Code. ()
- f. Expiration of a Permit. All permits expire annually at midnight on December 31 of each calendar year. ()
- 03. Renewal of Permit.** All permits must be renewed annually and are valid for twelve (12) calendar months. ()
 - a. The Department will mail notices of renewal for permits no later than ninety (90) days prior to the expiration date on the permit. ()
 - b. An application for renewal must be submitted annually for each business location through written application or online services, where available. ()
 - c. A business with multiple sites may submit a single written application to renew the permit at each site, so long as the application is accompanied by a list of business permit numbers, locations, and addresses. ()
 - d. A permit will not be renewed for any location until any past due fines for violations are paid in full. Fines are considered past due when not paid within ten (10) days of the citation date, or within ten (10) days after notification that the fine is upheld upon appeal, whichever is later. Violation fines under appeal are not considered past due. ()
- 04. Application for Exemption.** Businesses seeking exemption from vendor assisted sales must submit information to the Department to establish compliance with the following criteria: ()
 - a. Tobacco products comprise at least seventy-five percent (75%) of total merchandise as determined by sales reported to the Idaho State Tax Commission; ()
 - b. Minors are not allowed in exempt businesses and there is a sign on all entrances prohibiting minors; and ()
 - c. There must be a separate entrance to the outside air or to a common area not under shared ownership by the exempt business. ()
- 021. PERMITTEE RESPONSIBILITIES.** The permittee is responsible for the following: ()
 - 01. Possession of Permit.** Each business location must have a permit. ()
 - 02. Visibility.** The permit must be available upon request at each site. ()
 - 03. Display of Sign.** Each business may display, at each business site, a sign which states: "State Law Prohibits the Sale of Tobacco Products to Persons Under the Age of Eighteen (18) Years. Proof of Age Required. Anyone Who Sells or Distributes Tobacco to a Minor is Subject to Strict Fines and Penalties. Minors are Subject to Fines and Penalties." ()
 - 04. Effective Training.** Each permittee is responsible to train employees as to the requirements of Title 39, Chapter 57, Idaho Code, and these rules. ()
 - a. Unless the permittee has its own training program as described in Subsection 021.04.b. of this rule, the employer must, at a minimum, read to the seller or prospective seller who may be responsible for sale or distribution of tobacco products, or assure the seller or prospective seller has read the information contained on the Employee Training form found in Appendix A of these rules and have him initial each statement, and sign and date the form indicating an understanding of the provisions of the law governing minors' access to tobacco products. ()
 - b. Permittee may have his own training program but it must contain at least each of the elements listed

in the Employee Training form found in Appendix A of these rules. The seller or prospective seller who may be responsible for sale or distribution of tobacco products must affirm in writing his acknowledgment of such training. ()

05. Permit Requirements. All permittees are required to be familiar with and comply with the requirements of Title 39, Chapter 57, Idaho Code as that act pertains to the permittee's sales of tobacco products. ()

022. DELIVERY SALE ADDITIONAL REQUIREMENTS.

In addition to the requirements of Title 39, Chapter 57, Idaho Code, all permittees holding a Delivery Sale Endorsement, who mail or ship tobacco products must: ()

01. Shipping Package Requirements. Imprint in clearly legible, black ink letters, that are no less than one (1) inch tall, the words "TOBACCO PRODUCT, MUST BE 18 YEARS OF AGE TO ACCEPT" on the exterior top and bottom of the shipping package. ()

02. Delivery Requirements. Require that tobacco products only be delivered in a face-to-face delivery to the address on the original shipping label. The individual receiving the delivery must be verified to be at least eighteen (18) years of age and have the same address as on the original shipping label. ()

023. -- 050. (RESERVED).

051. CIVIL PENALTIES FOR VIOLATION OF PERMIT.

01. Violations by the Seller. ()

a. The seller will receive a one hundred dollar (\$100) fine for each violation. ()

b. Each violation will be recorded with the Department and may be accessed by potential employers upon the written consent of the seller as a portion of the training permit documentation. ()

02. Violations by the Permittee. ()

a. First violation. The permittee will be notified in writing of the violation and penalties to be levied for further violations. No fine will be imposed. ()

b. Second violation in a two (2) year period. ()

i. The permittee will be fined two hundred dollars (\$200). ()

ii. If the permittee provides evidence of effective training, provided to the seller prior to the second violation, within ten (10) business days from the date of violation, the Department will waive the fine. ()

iii. The permittee will be notified in writing of the penalties to be levied for further violations. ()

c. Third violation in a two (2) year period. ()

i. The permittee will be fined two hundred dollars (\$200). ()

ii. The permit will be suspended for up to seven (7) days beginning upon a date set by the Department following the third violation. Evidence of effective employee training will be a mitigating factor in determining the length of the permit suspension. ()

iii. The permittee must remove all tobacco products from public sight for the duration of the revocation of the permit. ()

iv. If the violation is by an employee, at the same location, who was involved in any previous citation

for violation, the permittee will be fined four hundred dollars (\$400). ()

d. Fourth or subsequent violation in a two (2) year period. ()

i. The permittee will be fined four hundred dollars (\$400). ()

ii. The permit will be revoked until such time as the permittee demonstrates an effective training program to the Department, but in no case will the revocation be less than thirty (30) days. ()

iii. The permittee must remove all tobacco products from public sight for the duration of the revocation of the permit. ()

03. Payment of Fines. All fine payments must be received by the Department within ten (10) days of the date of the citation. Fine payments should be mailed to, Tobacco Project Office, 450 West State Street, 3rd Floor, Boise, ID 83720-0036. ()

052. CRIMINAL PENALTIES.

01. Selling or Distributing Without a Permit. Criminal penalties apply to any business or individual(s) which sells or distributes tobacco products to the public without a permit. ()

02. Department Notified of Violation. If the Department is notified of a violation of Section 39-5709 et seq., Idaho Code, the Department will contact the appropriate law enforcement authority. ()

053. -- 100. (RESERVED).

101. INSPECTIONS.

01. Random and Unannounced Inspections. The total number of random and unannounced inspections under Section 101 of this rule will be determined by: ()

a. The number of permittees on the last day of each calendar year multiplied by the percentage of violations for the preceding year multiplied by a factor of ten (10). A calculation checklist is provided under Appendix B; ()

b. In no instance will the total number of inspections be less than the number of permittees, or exceed twice the number of permittees. ()

c. The Department and the Idaho State Police must conduct at least one (1), unannounced inspection per year at every known business location identified as a retailer of tobacco products to the public. All additional inspections required to meet the total number specified under Section 101, of this rule, must be conducted in a random manner. ()

02. Who Will Inspect. Inspections will be conducted for all minor exempt permit locations by an adult enforcement officer. For all other permit locations, inspections will be conducted by an adult enforcement officer accompanied by a minor. ()

03. Law Enforcement Agency Inspections. ()

a. In addition to the inspections set forth in Subsection 101.01, of this rule, any law enforcement agency may conduct inspections consistent with agency policy and procedure with or without a minor at any business location, at any time, where tobacco products are sold or distributed to the public. ()

b. Law enforcement agencies conducting inspections under Subsection 101.03.a. of this rule will report the results from their inspections to the Department. All citations will become part of the permittee's permanent record. ()

04. Complaint Investigation. ()

a. The Department must refer all written complaints concerning the sale of tobacco products to minors to the appropriate agency, as determined by the Department, for investigation. ()

b. Inspections conducted as part of the investigation of a written complaint are not included in the overall number of inspections identified under Subsections 101.01 and 101.03 of this rule. Citations issued during the investigation of a written complaint must be added to the permittee's permanent record. ()

05. Issuance of Citation or Report. For inspections conducted under Subsection 101.01 of this rule, a representative of the business will be provided with a report, within two (2) business days, after the inspection. The date the Department provides notification of the citation must be used for determination of timely payment of fines and all other administrative actions including requests for waivers and request for appeals. ()

102. -- 999. (RESERVED).

**APPENDIX A
EMPLOYEE TRAINING FORM**

The following may be used for training of employees to assure that they are aware of the current law regarding youth access to tobacco products in the state of Idaho. This would constitute "minimum" training required by the employer as indicated in Section 39-5701 et seq., Idaho Code.

Have the employee initial each section and sign at the bottom.

_____ I understand the state law prohibits the sale of ANY tobacco products to persons under 18 years of age and that verification of age is required for any sale of tobacco products.

_____ I understand that I am to ask for photo identification from any persons whom I do not personally know to be at least 18 years of age and verify their age before a sale of tobacco products.

_____ I understand that sales to anyone under the age of 18 can result in a personal fine to me of \$100 for the first offense.

_____ I understand that "tobacco products" includes any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco. (Section 39-5702 (10), Idaho Code)

_____ I understand that this store may be inspected at any time for compliance with the state law regarding "youth access to tobacco products."

_____ I understand that all sales must be "vendor assisted" unless the store in which I work has 75% of the total merchandise available for sale as tobacco products. This store is _____ is not _____ exempted from the vendor assisted requirement. (check one)

_____ I understand that cigarettes **must** be sold only in their original sealed package from the manufacturer. (Section 39-5707, Idaho Code)

_____ I have been given a copy of Section 39-5701 et seq., Idaho Code, and IDAPA 16.07.25, "Prevention of Minor's Access to Tobacco Products."

I have read and agree to these statements and have had all my questions answered regarding my responsibilities as a seller of tobacco products in the state of Idaho.

By signing this agreement, I consent to having a current or potential employer contact the Department of Health and Welfare to determine if I have received citations for violation Title 39, Chapter 57, Idaho Code.

Printed Name of Employee

Employee's Signature

Witnessed

Date
()

**APPENDIX B
RANDOM AND UNANNOUNCED INSPECTION CHECKLIST**

Inspection Year _____

1. Overall Violation Rate for Prior Year (20__) (Percentage) _____ x . _____
2. Number of Permittees as of December 31, 20__ : _____
3. Multiply the Overall Violation Rate for Prior Year by the Number of Permittees: _____
4. Multiply the results of Step 3 by 10: _____
5. The Result of Step 4 is the Total of Random and Unannounced Inspections: _____ ()

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.80 - PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING RESERVE LIABILITIES AND NONFORFEITURE VALUES

DOCKET NO. 18-0180-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-612 and 41-1927, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

This rule establishes the 1980 CSO Mortality Table as the minimum standard for computation of policy reserves and nonforfeiture values for preneed policies, offered by life insurers to cover funeral and burial expenses. It is based on a model regulation recently developed by the National Association of Insurance Commissioners in conjunction with the insurance industry to address a recent finding by the Society of Actuaries that the mortality table slated to become the minimum standard effective January 1, 2009 produces inadequate reserves. The rule allows companies a time period to transition to the use of the 1980 CSO Mortality Tables and provides notice requirements to keep the Director of the Department of Insurance informed on which table is in use.

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

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

NEGOTIATED RULEMAKING: In compliance with IDAPA 04.11.01.811, negotiated rule making was not conducted because this rule was drafted in conjunction with industry and is therefore unlikely to generate comments or controversy.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martha Smith, Senior Financial Examiner, Idaho Department of Insurance, at 208/334-4315.

Anyone may submit written comments regarding this proposed rule making. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 10th day of July 2008.

William W. Deal
Director
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise, ID 83720-0043
208-334-4250 (Voice)
208-334-4398 (Fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0180-0801**IDAPA 18
TITLE 01
CHAPTER 80****18.01.80 - PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING
RESERVE LIABILITIES AND NONFORFEITURE VALUES****000. LEGAL AUTHORITY.**

This rule is promulgated and adopted pursuant to the authority granted by Sections 41-211, 41-612, and 41-1927, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 18.01.80, "Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values". ()

02. Scope. This rule applies to preneed insurance contracts, as defined in Subsection 010 of this rule, and to similar policies and certificates, as may be determined by the director. ()

03. Purpose. The purpose of this rule is to establish for preneed insurance products minimum mortality standards for reserves and nonforfeiture values, and to require the use of the 1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. ()

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and Chapter 52, Title 67, Idaho Code, the Idaho Administrative Procedure Act, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General – General Provisions. ()

004. INCORPORATION BY REFERENCE.

The Director of the Department of Insurance adopts by reference the 1980 and 2001 CSO Mortality Tables. The tables are available on the Society of Actuaries website at <http://www.soa.org/professional-interests/technology/tech-table-manager.aspx> and http://www.actuary.org/life/cso_0702.asp. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ()

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ()

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. 2001 CSO Mortality Table. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. ()

02. Ultimate 1980 CSO. "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten (10) -year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983. ()

03. Preneed Insurance. For the purposes of this rule, preneed insurance is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing. ()

011. MINIMUM STANDARDS.

01. Valuation Mortality Standards. For preneed insurance contracts, as defined in Section 010 of this rule, and similar policies and contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO. ()

02. Valuation Interest Rate Standards. ()

a. The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in Section 41-612, Idaho Code. ()

b. The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in Section 41-1927, Idaho Code. ()

03. Valuation Method Standards. ()

a. The method used in determining the minimum standard for valuation of preneed insurance shall be the method as defined in Section 41-612, Idaho Code. ()

b. The method used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the method as defined in Section 41-1927, Idaho Code. ()

012. TRANSITION RULES.

01. 2001 CSO Election. For preneed insurance policies issued on or after the effective date of this rule

and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds. ()

02. Written Notification of Election. ()

a. If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this rule and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the insurer's domiciliary commissioner. The notification shall include: ()

i. A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard; ()

ii. A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and ()

iii. Supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this rule and using the 2001 CSO as a minimum standard for reserves. ()

03. End of Transition Period. Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves. ()

013. EFFECTIVE DATE.

This rule is applicable to preneed insurance policies and certificates and similar contracts and certificates, as specified in Section 001 of this rule, issued on or after January 1, 2009. ()

014 -- 999. (RESERVED).

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Sections 58-104(6), 58-105, and 38-1304, Idaho Code.

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

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 10:00 am - 11:30 am PDT 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 3:00 pm - 4:30 pm PDT 10230 Hwy 12 Orofino, ID	Thursday - September 18, 2008 10:00 am - 11:30 am MDT 300 North 6th Street, Suite 103 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 following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is intended to implement the recent 2008 amendment to Section 42-201, Idaho Code, adding subsections 3(b), (4), (5) and (6) thereto, which allow for the diversion of water from a natural watercourse for certain forest practices and forest dust abatement without a water right, with certain restrictions.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the language of this rule was developed by the Forest Practices Act Advisory Committee, which includes representatives of the persons affected by the rule.

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

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

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Craig Foss, Chief
Bureau of Forestry Assistance
Idaho Department of Lands
3780 Industrial Ave. S
Coeur d'Alene, Idaho 83815
Phone: (208) 769-1525 / Fax No. (208) 769-1524

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0201-0801

020. GENERAL RULES.

01. Compliance. Practices contained within a rule shall be complied with to accomplish the purpose to which the rule is related. (8-13-85)

a. If conditions of sites or activities require the application of practices which differ from those prescribed by the rules, the operator shall obtain a variance according to the following procedure: (8-13-85)

i. The operator shall submit a request for variance to the department in writing. The request shall include a description of the site and particular conditions which necessitate a variance, and a description of proposed practices which, if applied, will result in a violation of the rules. (8-13-85)

ii. Within fourteen (14) calendar days the department shall evaluate the request and notify the operator in writing of the determination to allow or disallow the variance request. (7-1-96)

iii. All practices authorized under this procedure shall provide for equivalent or better results over the long term than the rules which are superseded to insure site productivity, water quality and fish and wildlife habitat. A variance can be applied only at approved sites. (8-13-85)

b. Practices shall also be in compliance with the Stream Channel Alteration Act (Title 42, Chapter 38, Idaho Code), Idaho Water Quality Standards and Waste Water Treatment Requirements (Title 39, Chapter 1, Idaho Code), the Idaho Pesticide Law (Title 22, Chapter 34, Idaho Code), and the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code), and rules and regulations pursuant thereto. (8-13-85)

c. Water may be diverted from a stream and used at any time to carry out Idaho forest practices and for forest road dust abatement, provided that: ()

i. The total daily volume diverted is no greater than two-tenths (0.2) acre-feet (65,170 gallons) from a single natural watercourse; and ()

ii. The rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the natural watercourse at the point of diversion for these purposes. No person shall, under this Section 020, divert water from an irrigation canal, irrigation reservoir, or other irrigation facility while water is lawfully diverted, stored, captured, conveyed, used or otherwise physically controlled by an irrigator, irrigation district or canal company. ()

d. Water diversion intakes used for diversions under Subsection 020.01 shall be screened with a maximum screen mesh size as follows: ()

i. Fish-bearing Class I streams: Three thirty-seconds (3/32) inch. ()

ii. All other streams and watercourses: One-quarter (1/4) inch. ()

02. Conversion of Forest Lands. Conversions require a notification be filed, and compliance with all rules except those relating to reforestation. On converted parcels larger than one (1) acre, plant acceptable vegetative cover sufficient to maintain soil productivity and minimize erosion. Cover shall be established within one (1) year of completion of the forest practice except that the director may grant an extension of time if weather or other conditions interfere. Within three (3) years of completion of the forest practice, the director shall determine if the conversion has been accomplished by: (7-1-96)

a. The presence or absence of improvements necessary for use of land for its intended purpose;

(7-1-96)

b. Evidence of actual use of the land for the intended purpose. (10-14-75)

c. If the conversion has not been accomplished within three (3) years of the completion of harvest, supplemental reforestation Subsection 050.06 applies. (7-1-96)

03. Annual Review and Consultation. The director shall, at least once each year, meet with other state agencies and the Forest Practices Advisory Committee and review recommendations for amendments to rules, new rules, or repeal of rules. He shall then report to the board a summary of such meeting or meetings, together with recommendations for amendments to rules, new rules, or repeal of rules. (10-14-75)

04. Consultation. The director shall consult with other state agencies and departments concerned with the management of forest environment where expertise from such agencies or departments is desirable or necessary. (10-14-75)

a. The Idaho Water Quality Standards and Wastewater Treatment Requirements, IDAPA 58.01.02, (Title 39, Chapter 1, Idaho Code) reference the Forest Practice Rules as approved best management practices and describe a procedure of modifying the practices based on monitoring and surveillance. The director shall review petitions from Idaho Department of Environmental Quality for changes or additions to the rules according to Administrative Procedures Act (Title 67, Chapter 52, Idaho Code) and make recommendations for modification to the Board of Land Commissioners. (9-20-88)

05. Notification of Forest Practice. (10-14-75)

a. Before commencing a forest practice or a conversion of forest lands the department shall be notified as required in Subsection 020.025.b. The notice shall be given by the operator. However, the timber owner or landowner satisfies the responsibility of the operator under this subsection. When more than one forest practice is to be conducted in relation to harvesting of forest tree species, one notice including each forest practice to be conducted shall be filed with the department. (~~7-1-96~~)(____)

b. The notification required by Subsection 020.05.a. shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner; the legal description of the area in which the forest practice is to be conducted; whether the forest practice borders an outstanding resource water and other information the department considers necessary for the administration of the rules adopted by the board under Section 38-1304, Idaho Code. All notifications must be formally accepted by the department before any forest practice may begin. Promptly upon formal acceptance of the notice but not more than fourteen (14) calendar days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, timber owner, and landowner a copy of the rules. (7-1-96)

c. An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notice within thirty (30) calendar days of the change. Promptly upon receipt of notice of change, but not to exceed fourteen (14) calendar days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change. (7-1-96)

d. The notification is valid for the same period as set forth in the certificate of compliance under Section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section. (4-21-92)

e. If the notification required by Subsection 020.05.a. of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) calendar days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fourteen (14) calendar days from receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal. (7-1-96)

- 06. Notification Exception.** A notification of Forest Practice is required except for: (7-1-98)
- a.** Routine road maintenance, recreational uses, grazing by domestic livestock, cone picking, culture and harvest of Christmas trees on lands used solely for the production of Christmas trees, or harvesting of other minor forest products. (10-14-75)
 - b.** Non-commercial cutting and removal of forest tree species by a person for his own personal use. (10-14-75)
 - c.** Clearing forest land for conversion to surface mining or dredge and placer mining operations under a reclamation plan or dredge mining permit. (9-20-88)
- 07. Emergency Forest Practices.** No prior notification shall be required for emergency forest practices necessitated by and commenced during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event. Within forty-eight (48) hours after commencement of such practice, the operator, timber owner, or landowner shall notify the director with an explanation of why emergency action was necessary. Such emergency forest practices are subject to the rules herein, except that the operator, timber owner, or landowner may take any reasonable action to minimize damage to forest lands, timber, or public resource from the direct or indirect effects of the catastrophic event. (7-1-96)
- 08. Duty of Purchaser.** The initial purchaser of forest tree species which have been harvested from forest lands shall, before making such purchase or contract to purchase or accepting delivery of the same, receive and keep on file a copy of the notice required by Section 38-1306, Idaho Code relating to the harvesting practice for which the forest tree species are being acquired by the initial purchaser. Such notice shall be available for inspection upon request by the department at all reasonable times. (7-1-96)
- 09. State Divided into Regions.** For the purpose of administering this Act, the State is divided into two (2) forest regions: one (1) north of the Salmon River and one (1) south of the Salmon River. (7-1-96)
- 10. Regions Divided into Forest Habitat Types.** For the purpose of further refining the on-the-ground administration of the Act, the forest regions can be divided into Habitat Types. (7-1-96)

IDAPA 20 - DEPARTMENT OF LANDS

20.02.09 - METHOD OF SELLING POLE-QUALITY WESTERN RED CEDAR

DOCKET NO. 20-0209-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

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

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 10:00 am - 11:30 am PDT 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 3:00 pm - 4:30 pm PDT 10230 Hwy 12 Orofino, ID	Thursday - September 18, 2008 10:00 am - 11:30 am MDT 300 North 6th Street, Suite 103 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: This Rule mostly restates Idaho Code and provides no additional clarification or interpretation of the Statutes. By repealing this Rule and eliminating the redundant material, and combining the remaining items into one consolidated rule, efficiency can be gained. The other rule being repealed (IDAPA 20.02.10) will be consolidated with a concurrently proposed new rule, IDAPA 20.02.14.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the nature of this rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned. Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Robert Helmer, Chief
Bureau of Forest Management
Idaho Department of Lands
3780 Industrial Ave. S
Coeur d'Alene, Idaho 83815
Phone: (208) 769-1525 / Fax No. (208) 769-1524

IDAPA 20.02.09 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 20 - DEPARTMENT OF LANDS

20.02.10 - RULES FOR SELLING OF FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0210-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

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

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 10:00 am - 11:30 am PDT 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 3:00 pm - 4:30 pm PDT 10230 Hwy 12 Orofino, ID	Thursday - September 18, 2008 10:00 am - 11:30 am MDT 300 North 6th Street, Suite 103 Boise, ID

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

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

This rule mostly restates Idaho Code and provides no additional clarification or interpretation of the statutes. By repealing this rule and eliminating the redundant material, and combining the remaining items into one consolidated rule, efficiency can be gained. The other rule being repealed (IDAPA 20.02.09) will be consolidated with a concurrently proposed new rule, IDAPA 20.02.14.

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

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

NEGOTIATED RULEMAKING: Pursuant to 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the simple nature of this rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned. Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Robert Helmer, Chief
Bureau of Forest Management
Idaho Department of Lands

3780 Industrial Ave. S
Coeur d'Alene, Idaho 83815
Phone: (208) 769-1525 / Fax No. (208) 769-1524

IDAPA 20.02.10 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 20 - DEPARTMENT OF LANDS

20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0214-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 58-104(6) and 58-105, Idaho Code.

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

IDAHO DEPARTMENT OF LANDS		
Friday - September 5, 2008 10:00 am - 11:30 am PDT 3780 Industrial Ave S. Coeur d'Alene, ID	Thursday - September 11, 2008 3:00 pm - 4:30 pm PDT 10230 Hwy 12 Orofino, ID	Thursday - September 18, 2008 10:00 am - 11:30 am MDT 300 North 6th Street, Suite 103 Boise, ID

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

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

This rule is a consolidation and shortening of two existing rules that are concurrently being repealed, IDAPA 20.02.09 and IDAPA 20.02.10. This rule will eliminate duplication and expense of maintaining Rules that do not provide clarification or interpretation of the Statutes.

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

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

NEGOTIATED RULEMAKING: Pursuant to 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the simple nature of this rulemaking.

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

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

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. IDL will consider all written comments received by the undersigned on or before September 24, 2008.

DATED this 17th day of July, 2008.

Robert Helmer, Chief
Bureau of Forest Management
Idaho Department of Lands
3780 Industrial Ave. S
Coeur d'Alene, Idaho 83815
Phone: (208) 769-1525 / Fax No. (208) 769-1524

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0214-0801

IDAPA 20
TITLE 02
CHAPTER 14

20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 58-104(6), 58-105, 67-5201, et seq, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.02.14 “Rules for Selling Forest Products on State-Owned Endowment Lands”. ()

02. Scope. These rules govern the selling of forest products from state endowment lands. ()

002. WRITTEN INTERPRETATION.

The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and information opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General opinions and other written interpretations, if applicable, are available for public inspection and copying at the Director’s Office of the Idaho Department of Lands, Boise, Idaho. ()

003. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the Board shall be entitled to judicial review pursuant to the provisions of Sections 58-122 and 67-5201, et seq, Idaho Code. (“Administrative Procedures Act”), and IDAPA 20.01.01. ()

004. INCORPORATION BY REFERENCE.

The following document is incorporated by reference into these rules: American National Standard Institute, 05.1, 2002 Edition, published by the Alliance for Telecommunication Industry Solutions and available to purchase on the Internet at: <http://www.atis.org>. ()

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

The principal place of business of the Idaho Department of Lands is in Boise, Idaho. ()

01. Address. The office is located at 300 N. 6th Street, Ste. 103, Boise, Idaho. ()

02. Office Hours. Open from 8 a.m. to 5 p.m., Monday through Friday, except weekends and holidays. ()

03. Mailing Address. Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720. ()

04. Telephone. The telephone number is 208-334-0200. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule is subject to and in compliance with the provisions of Sections 9-337, et seq., Idaho Code. (“Public Records Act”). All records related to this chapter are public records except to the extent such records are, by law, exempt from disclosure. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Board.** The Idaho State Board of Land Commissioners. ()
- 02. Cable Yarding.** Transportation of forest products from stump to road by means of a suspended, powered cable system. ()
- 03. Cedar.** Western Red Cedar (*Thuja plicata*) which is a forest species that is plentiful on state-owned forest lands in northern Idaho. ()
- 04. Cedar Pole.** A segment or portion of a western red cedar tree that can be manufactured into a utility pole meeting current ANSI Specifications. ()
- 05. Contract.** Timber sale contract in a form prescribed by the Department. ()
- 06. Cutting Unit.** A defined portion of a timber sale that is identified on a map and on the ground. ()
- 07. Department.** The Idaho Department of Lands. ()
- 08. Development Credits.** A stumpage credit received by the purchaser for the construction or reconstruction of roads, bridges, or other permanent improvements. ()
- 09. Director.** The director of the Idaho Department of Lands or his authorized representative. ()
- 10. Extreme Circumstances.** Catastrophic circumstances including, but not limited to, fire, downed timber due to a wind event, flood, earthquake, destruction of a purchaser's milling facilities or equipment by fire, or milling operation shut down due to a court order related to compliance with state or federal environmental laws. ()
- 11. Forest Products.** Major forest resources including sawlogs, pulp, cedar poles, and cedar products suitable for split products or other marketable materials. ()
- 12. Ground-Based Yarding.** Transportation of forest products from stump to road using tractors, forwarders, or rubber-tired skidders. ()
- 13. Length.** The length of a pole in five (5) foot increments. ()
- 14. Measurement.** Weight, length, board foot volume, cubic volume, or any other means or procedure for determining quantity of forest products. ()
- 15. Net Appraised Value.** The minimum estimated sale value of the forest products after deducting the development credit. ()
- 16. Net Sale Value.** The final sale bid value of the forest products after deducting the development credit. ()
- 17. Pulp.** Any portion of a sawlog that does not meet the sawlog merchantability specifications of thirty-three and one-third percent (33 1/3%) net scale. ()
- 18. Purchaser.** A successful bidder for forest products from a state sale who has executed a timber sale contract. ()
- 19. Roads.** Forest access roads used for the transportation of forest products. ()

20. **Scaling.** Quantitative measurement of logs or other forest products by a log rule. ()
21. **Scribner Decimal “C” Board Foot Measure.** The measurement of forest products in accordance with the log rule described in Title 38, Chapter 12, Idaho Code, and the rules promulgated thereunder. ()
22. **State.** The State of Idaho. ()
- 011. ABBREVIATIONS.**
01. **ANSI.** American National Standards Institute. ()
02. **IDAPA.** Idaho Administrative Procedures Act. ()
03. **MBF.** Thousand Board Feet. ()
- 012. -- 018. (RESERVED).**
- 019. FIREWOOD AND PERSONAL USE PRODUCT PERMITS.**
Permits for the sale of dead and down forest products will be on a charge basis at a rate determined by the Board. Permits will not exceed a maximum value established by the Director. ()
- 020. DIRECT SALES.**
The direct sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. This type of sale is to be used to harvest isolated or by-passed parcels of timber of insufficient value and volume to justify a salvage sale (refer to Rule Section 021). The direct sale shall not be used when two (2) or more potential purchasers may be interested in bidding on the forest products offered for sale. The duration of a direct sale shall not exceed an initial period of six (6) months with a provision for one six (6) month extension. The purchaser shall furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars (\$100). Advance payment will be required and all sales will be on a lump sum basis. ()
- 021. SALVAGE SALES.**
Salvage sales shall not exceed the net appraised value and volume established by the Board and are intended to be used in the harvesting of timber which, in the opinion of the Director, is of insufficient quality and/or quantity to support a timber sale (refer to Rule Section 022). The contract requirements for salvage sales shall be the same as for timber sales. ()
- 022. TIMBER SALES.**
Timber sales exceed the net appraised value or volume for salvage sales established by the Board. ()
- 023. CEDAR POLE SALE SELECTION.**
01. **Requirements for Cedar Pole Sale.** An area shall be reserved for a pole-quality cedar sale if the area contains at least one hundred fifty (150) cedar poles in a density of at least five (5) poles per acre on ground based yarding areas and at least ten (10) poles per acre on cable yarding areas. Areas with a lower density of poles may be offered as a pole sale if the Department determines that such sale is economically feasible. ()
02. **Maximum Amount of Sawlogs.** Sawlogs and other forest products shall not exceed fifty percent (50%) of the total sale volume, excluding materials generated through the construction of roads and development sites. ()
03. **Poles within Sawlog Sale.** If any area within a sawlog sale contains two hundred fifty (250) cedar poles or more in a density of at least ten (10) poles per acre, the area shall be reserved for a pole-quality cedar sale. ()
- 024. CEDAR POLE SALE PROCEDURES.**

01. Length Appraisal. Cedar poles shall be appraised by length and bid on a lineal foot basis. The conversion table set out below shall be used to establish the corresponding board foot volume. ()

02. Length to Volume Conversion Table for Western Red Cedar Poles:

Pole Length	Board Feet Each*
30'	50
35'	70
40'	101
45'	161
50'	239
55'	261
60'	304
65'	418
70'	462
75'	512
80'	595
85'	736
90'	792
95'	892
100'	929
105'	1113
110'	1132
115'	1420
120'	1475

* Based on Scribner Decimal "C" board foot measure

()

03. Bidding Limited to Cedar. When cedar represents eighty percent (80%) or more of the total appraised value, bidding shall be limited to cedar poles and cedar sawlogs only. ()

04. Purchaser's Option. The purchaser may opt to remove cedar as poles, sawlogs, and products or as sawlogs and products. Such choice shall be made at the completion of the auction. ()

05. Option to Manufacture. If the purchaser opts to manufacture the cedar as poles, the poles and sawlog material shall be removed at bid prices (lineal foot basis for poles and MBF basis for sawlogs). Pole-quality cedar trees containing thirty (30) foot cedar poles may be harvested as poles or sawlogs at the purchaser's discretion unless such trees are designated reserve. ()

06. Option to Manufacture Sawlogs. If the purchaser elects to manufacture cedar poles as sawlogs, the bid values of cedar poles and cedar sawlog material shall be weighted by volume to determine the selling value for all cedar sawlogs. ()

025. POLE SPECIFICATIONS.

Poles will conform to current ANSI Specifications and Dimensions for Wood Poles unless agreed otherwise by contract. ()

026. ANNUAL SALES PLAN.

The Department will prepare an annual sales plan which will describe the timber sales to be offered for sale during the forthcoming fiscal year. The plan will be based on recommended annual harvest volumes utilizing inventory data, local stand conditions, special management problems, and economic factors. The plan will be presented to the Board for approval annually and upon approval made available to all interested parties. The plan may be altered to respond to changing market conditions or to expedite the sale of damaged or insect-infested forest products. Each individual timber sale will be submitted to the Board for approval prior to advertisement. ()

027. -- 030. (RESERVED).

031. TIMBER SALE AUCTIONS.

01. Requirements for Bidding. ()

a. Bidders shall present a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. ()

b. Bidders shall not be delinquent on any payments to the State at the time of sale. ()

c. Bidders shall not be a minor as defined in Section 32-101, Idaho Code. ()

d. Foreign corporations, as defined in Section 30-1-106, Idaho Code, shall procure a certificate of authority to do business in Idaho to be eligible to bid on and purchase State timber. ()

02. Opening the Auction. The Director's representative will open the sale, read the advertisement, ask for questions, and then accept bid deposits. Each eligible bidder will select a numbered card to determine who will be allowed the first bid. The person entitled to the first bid may bid the minimum appraised or any higher price. Any bidder is then entitled to bid and bidding progresses with each previous bid being accepted by the last bidder. All bidding is done in the form of an oral auction. ()

03. Closing the Auction. The Director's representative will close the auction and award the sale to the successful bidder. Bid deposits will be returned to the unsuccessful bidders. Sale values and charges will be calculated on the day of sale. Within ten (10) days the successful bidder will be required to pay ten percent (10%) of the final net sale value. Surety bid bonds must be replaced with cash within ten (10) days of the date of sale, either separately or as part of the total ten percent (10%) initial deposit. ()

032. TIMBER SALE CONTRACT SIGNATURES.

The Department shall prepare and make available to the purchaser a contract and supplemental documents, including bond forms, with appropriate instructions. The purchaser shall return the signed contract and bonds for appropriate State signatures. The State will return a fully executed contract to the purchaser. ()

033. INITIAL DEPOSIT AND BONDS.

01. Initial Deposit. The initial deposit (ten percent (10%) of net sale value) shall be retained by the state as a cash reserve for the duration of the contract; the purchaser shall not be entitled to any interest earned thereon. ()

02. Performance Bond. A bond of sufficient amount for carrying out in good faith all applicable laws and all the terms and conditions imposed by the Board and the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) shall be executed within thirty (30) days from the date of sale but prior to execution of the contract. ()

03. Guarantee of Payment. Prior to cutting of any forest products, the purchaser shall provide a bond

acceptable to the Department as assurance of payment for products to be cut and/or removed during the next ninety (90) days. This bond is in addition to the required initial deposit. ()

034. -- 040. (RESERVED).

041. STUMPAGE AND INTEREST PAYMENT.

A stumpage summary of forest products measured during the prior month and a statement of account will be prepared by the Department and forwarded to the purchaser monthly. The statement shall include interest computed from the date of sale to the date of the billing at a rate specified in the contract. The purchaser shall make payments within thirty (30) days of the end of the billing period or the payment shall be considered delinquent. ()

042. TIMBER SALE CANCELLATION.

It is the purchaser's responsibility to initiate cancellation by submitting such request in writing to the respective supervisory area office. A signed and notarized early release form must be completed by the purchaser when cancellation is requested prior to the original contract expiration date. When all contractual requirements have been completed, final payments have been received, all load tickets have been accounted for, and a written request for cancellation has been received by the Department, any credit balances will be returned and/or transferred to other timber sale accounts as requested by the purchaser within forty-five (45) days. ()

043. TIMBER SALE TERMINATION.

01. Request. A timber sale purchaser may, for reasons of hardship, make written request to terminate a timber sale contract before harvesting is completed. In such cases, the Board will determine if a hardship exists and if the contract should be terminated. ()

02. Premature Termination Policy. ()

a. The Board may authorize premature termination of any sale under any terms considered reasonable and appropriate. Any remaining amount of the ten percent (10%) initial deposit will be retained as a penalty, which amount may not be used as payment for forest products cut and/or removed. Additionally, the Board will seek payment of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars (\$5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine remaining on the sale area, the purchaser will have to pay five hundred dollars (\$500) upon termination. ()

b. If logging has occurred on the sale, the purchaser must complete the units that have been partially logged according to contract standards and complete all development work as specified in the contract to the extent of allowances that have been credited to the purchaser. ()

c. The purchaser who has terminated a timber sale contract will not be eligible to rebid that particular sale unless specifically authorized to do so by the Board. ()

044. -- 999. (RESERVED).

**IDAPA 20 - DEPARTMENT OF LANDS
IDAHO BOARD OF SCALING PRACTICES**

**20.06.02 - GENERAL RULES, LICENSING AND CHECK SCALES OF THE
IDAHO BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0602-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 38-1208 and 38-1220(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

Revisions proposed to Chapter 20.06.02, "General Rules, Licensing and Check Scales of the Idaho Board of Scaling Practices" include:

1. Reindexing of the chapter number from 20.06.02 to 20.06.01;
2. Incorporation by reference of the "Idaho Log Scaling Manual";
3. Addition of new rules to reflect gross and net scale determination (keeping the same intent currently reflected in Chapter 20.06.03 Rules; and
4. Technical corrections to existing rules.

Rules of the Idaho Board of Scaling Practices that govern scale determination in Idaho remain essentially unchanged, but will reference a new "Idaho Log Scaling Manual" rather than the USFS "National Forest Log Scaling Handbook." IDAPA 20.06.03, "Measurement Rules for Forest Products of the Idaho Board of Scaling Practices," will be repealed in their entirety. Resulting rules revisions will have all administrative rules of the Idaho Board of Scaling Practices stated in one chapter of rules. Once this rulemaking is adopted as a pending rule and approved as final by the legislature, this chapter will be reindexed as IDAPA 20.06.01.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, page 64.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ernie Bauer, phone 208-769-1445. The Idaho Log Scaling Manual and proposed rules are available at: www.ibsp.idaho.gov (the Idaho Board of Scaling Practices website).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 4th day of August, 2008.

Ernest H. Bauer, Executive Director
Department of Lands/Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, ID 83815
Phone: 208-769-1445, Fax: 208-769-1524
Email: ebauer@ibsp.idaho.gov
Web: www.ibsp.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0602-0801

IDAPA 20
TITLE 06
CHAPTER 021

**20.06.021 - ~~GENERAL RULES, LICENSING, AND CHECK SCALES~~ RULES OF THE
IDAHO BOARD OF SCALING PRACTICES**

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.06.021, "~~General Rules, Licensing, and Check Scales~~ Rules of the Idaho Board of Scaling Practices," ~~IDAPA 20.06.02.~~ (4-15-98)()

02. Scope. ~~These rules constitute the levy of assessment, payment for logging and hauling, licensing standards and renewals, and check scaling operations.~~ These rules constitute the levy of assessment, payment for logging and hauling, licensing standards and renewals, method of scaling forest products for commercial purposes, check scaling operations, and informal hearings. (4-15-98)()

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. Incorporated Document. IDAPA 20.06.01 adopts and incorporates by reference the "Idaho Log Scaling Manual," 2008 Edition, published by the Idaho Board of Scaling Practices. ()

02. Availability of Referenced Documents. Copies of the "Idaho Log Scaling Manual," 2008 Edition, are available at the following locations: ()

a. Idaho Board of Scaling Practices, 3780 Industrial Avenue South, Coeur d'Alene, Idaho 83815-8918. ()

b. State Law Library, 702 W. Idaho St., 4th Floor, Boise, Idaho 83702. ()

c. Web address: www.ibsp.idaho.gov/scalingmanual.htm. ()

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

01. Office Address. The office of the Idaho Board of Scaling Practices is located at 3780 Industrial Avenue South, Coeur d'Alene, Idaho. ()

02. Office Hours. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. ()

03. Mailing Address. The mailing address is: Idaho Board of Scaling Practices, 3780 Industrial Avenue South, Coeur d'Alene, Idaho 83815-8918. ()

04. Telephone and Fax. The telephone number is (208) 769-1445; fax number is (208) 769-1524. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

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

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

010. DEFINITIONS.

01. Board. The ~~State~~ Idaho Board of Scaling Practices. (~~3-20-04~~)()

02. Check Scaling. The comparison of scaling practices between a Board-appointed check scaler and any other scaler. (4-15-98)

03. Combination Log. Any multiple-segment log involving more than one (1) product classification. (4-15-98)

04. Complaint. A written statement alleging a violation of the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. (3-20-04)

05. Complainant. A person or entity who submits a complaint to the Board. (3-20-04)

06. Cubic Volume. A log rule that uses cubic feet or cubic meters as its basic unit of measure, determined on the basis of a mathematical formula. ()

067. Decimal "C." A log rule that uses tens of board feet as its basic unit of measure; one (1) decimal "C" equals ten (10) board feet. The ~~standard~~ Idaho Scribner ~~Coeuridale~~ decimal "C" volumes as listed in the Appendix, ~~Table I, IDAPA 20.06.03, "Measurement Rules for Forest Products of the State Board of Scaling Practices of the "Idaho Log Scaling Manual."~~ (4-15-98)()

~~078.~~ **Gross Scale.** The log rule volume of timber products before deductions are made for defects. (4-15-98)

~~089.~~ **Gross Weight.** The actual weight of the products hauled. (4-15-98)

~~0910.~~ **Informal Hearing.** Any hearing before the Board of Scaling Practices, as opposed to a formal hearing before a hearing officer designated by the Board. (3-20-04)

101. Log Brands. A unique symbol or mark placed on or in forest products for the purpose of identifying ownership. (4-15-98)

~~112.~~ **Net Scale.** The remaining log rule volume of timber products after deductions are made for defects, based on the product classification that is used. (4-15-98)

123. Official Seal. An official seal of the Idaho Board of Scaling Practices is hereby adopted. The seal

shall be round, of a diameter of at least one and one-half inches (1-1/2”), and be so constructed that it may readily be imprinted on paper. The seal appears in the appendix hereto. (4-15-98)

134. Prize Logs. As described in Section 38-809, Idaho Code. (4-15-98)

145. Product Classification. Classification as sawlog, pulp log, or cedar products log for purposes of net scale determination or check scaling. (~~4-15-98~~)()

156. Purchaser. The principal individual, partnership, or corporation entitled to ownership at the first determination of scale for forest products harvested in Idaho. Purchaser shall also include the owner of the timber as provided in Section 38-1209(b), Idaho Code. (4-15-98)

167. Requested Check Scale. A check scale performed pursuant to Section 820 of these rules. (4-15-98)

178. Relicense Check Scale. A check scale requested and scheduled in advance, by a licensed scaler, for purposes of license renewal. (4-15-98)

189. Routine Check Scale. A check scale that is not a relicense, temporary permit, or requested check scale. (4-15-98)

~~1920.~~ **Respondent.** The person or entity accused of violating the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. (3-20-04)

201. Temporary Permit Check Scale. A check scale performed pursuant to provisions of Section 240 of these rules. (4-15-98)

212. Written Scaling Specifications. A written document provided to the scaler that states the information necessary to scale logs in accordance with a contractual scaling agreement. (4-15-98)

(BREAK IN CONTINUITY OF SECTIONS)

100. PAYMENT FOR LOGGING OR HAULING. Provisions of Section 38-1220(b), Idaho Code, govern payment for logging or hauling. (3-20-04)

01. Gross Scale Determination. Gross scale shall be determined ~~in accordance with IDAPA 20.06.03, “Measurement Rules for Forest Products of the Idaho Board of Scaling Practices~~ by the methodology stated in Chapter Two (2) of the “Idaho Log Scaling Manual.” (~~4-15-98~~)()

02. Compliance with Gross Scale Determination. Notwithstanding the ~~mensuration~~ methodology criteria contained in ~~IDAPA 20.06.03, “Measurement Rules for Forest Products of the Idaho Board of Scaling Practices~~ the “Idaho Log Scaling Manual,” compliance shall be determined to have been met when check scale results on gross scale comparisons are within allowable standards of variation as contained in these rules. (~~4-15-98~~)()

(BREAK IN CONTINUITY OF SECTIONS)

300. STANDARD LICENSE EXAMINATION.

01. General. To be taken by all persons applying for the standard license. (4-15-98)

02. Written Examination. (4-15-98)

a. Will be based upon ~~the National Forest Log Scaling Handbook, FSH 2409.11, Amendment No. 6, Chapters 10, 20, and 30, and established rules of the Board~~ Chapters 1, 2, and 3 of the "Idaho Log Scaling Manual." (4-15-98)()

b. Any score of seventy percent (70%) or better is a passing grade. (4-15-98)

c. The written test must be taken and passed before the practical examination can be attempted. (4-15-98)

03. Practical Examination. (4-15-98)

a. The practical examination for a scaler's license will consist of scaling a minimum of not less than two hundred (200) logs with a net decimal "C" scale determination for sawlogs of not less than twenty thousand (20,000) board feet, or not less than fifteen thousand (15,000) board feet in the southeast Idaho area. (4-15-98)

b. The logs will first be scaled by three (3) qualified check scalers, except the southeast Idaho area shall be two (2) or more qualified check scalers, and the agreed-upon results will be the basis for grading the examination. (4-15-98)

c. To obtain a passing grade, a scaler must be within allowable limits of variation in the following categories:

CATEGORY		ALLOWABLE VARIATION
Gross Volume	For logs in round form	+/- 2.0%
	For logs in fractional or slab form	+/- 5.0%
Net Volume	Check scale percent of defect on logs checked	
	Up to 10	+/- 2.0%
	10.1 to 15	+/- 3.0%
	15.1 to 20	+/- 0.2% for each percent of defect
	Over 20	+/- 5.0%
	Species identification errors	3.0%

(4-15-98)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 499. (RESERVED).

500. METHOD OF SCALING FOREST PRODUCTS FOR COMMERCIAL PURPOSES.

01. Scribner Decimal "C". Log scaling by the Scribner decimal "C" method shall be made according to scaling practices and procedures described in the "Idaho Log Scaling Manual" and Sections 501 through 504 of these rules. ()

02. Cubic Volume. Log scaling by a cubic volume method shall be made according to scaling practices and procedures agreed upon in writing between parties to a scaling agreement. ()

03. Other Scaling Methods. Log scaling by any method other than Scribner decimal "C" or cubic volume shall be considered and determined by the Board upon written request. ()

501. GROSS VOLUME CONVERSIONS.

01. Conversion to Gross Decimal “C” or Gross Cubic Volume. Gross volume measurement determined in a manner other than decimal “C” or cubic volume shall be converted to an equivalent decimal “C” or cubic volume gross scale. ()

02. Conversion Factors. Measurement procedures and converting factors described in the Special Situations Measurement section, Chapter Two (2) of the “Idaho Log Scaling Manual,” may be used to express decimal “C” board foot equivalents. ()

03. Other Conversion Factors. Measurement procedures and converting factors not listed in the “Idaho Log Scaling Manual” shall be considered and determined by the Board upon written request. ()

502. GENERAL SCALING REQUIREMENTS.

01. Written Scaling Specifications. At any scaling site, licensed scalers shall be provided with a written document that states the information necessary to scale logs in accordance with a contractual scaling agreement. ()

02. Recording Measurements on Scale Tickets. For each log scaled, scalers shall record a combination of data from which both gross and net volume can be derived. This data shall include scaling length and scaling diameter(s). ()

03. Load Identification. Scalers shall ensure that all loads are readily identifiable upon completion of scaling. ()

503. GROSS DECIMAL “C” SCALE DETERMINATION.

Contractual scaling agreements relating to determination of Scribner decimal “C” gross scale shall not establish any scaling requirement that differs from those stated in the “Idaho Log Scaling Manual” except for a minimum top diameter that may be smaller than five and fifty-one hundredths inches (5.51”) actual measure. Licensed scalers shall be provided with written scaling specifications that denote any minimum top diameter that is smaller than five and fifty-one hundredths inches (5.51”) actual measure. ()

504. NET DECIMAL “C” SCALE DETERMINATION.

Contractual scaling agreements relating to determination of Scribner decimal “C” net scale may establish scaling requirements that differ from those stated in the “Idaho Log Scaling Manual.” Licensed scalers shall be provided with written scaling specifications that clearly describe any changes in net scale scaling practices. ()

505. -- 799. (RESERVED).

800. CHECK SCALING PROCEDURES.

01. Valid Check Scale. (4-15-98)

a. Check scaling shall require a minimum of fifty (50) logs containing a decimal “C” gross scale of at least ten thousand (10,000) board feet. When other methods of measurement are used, the check scaler will investigate the situation and determine the most logical method of check scaling. (4-15-98)

b. Check scaling will be performed without scaler’s knowledge, when possible. (4-15-98)

c. Check scales shall be performed only on logs that are in the same position as presented to the scaler. (4-15-98)

d. Check scales shall not be performed if the logs are not spread adequately enough, in the check scaler’s discretion, to allow for accurate scaling. If these conditions arise, the check scaler shall make a written report describing the conditions and surrounding circumstances. The Board shall make a decision as to the disposition of these conditions and direct the check scaler accordingly. (4-15-98)

e. The check scaler shall use the written scaling specifications that have been provided to the scaler. In the absence or omission of written scaling specifications, logs shall be check scaled according to ~~IDAPA 20-06-03, "Measurement Rules for Forest Products of the Idaho Board of Scaling Practices~~ scaling methodology stated within the "Idaho Log Scaling Manual." (4-15-98)()

02. Cooperative Scaling. Cooperative scaling involves two (2) scalers, using different scaling specifications, working together to determine the log scale volume. In these instances, each scaler shall be individually responsible for the scale recorded. (4-15-98)

03. Team Scaling. Team scaling is two (2) scalers, using the same scaling specifications, working together to determine the log scale volume. In these instances, both scalers shall be responsible for the scale recorded, except that if one (1) of the individuals is an apprentice scaler, the licensed scaler shall be responsible for the scale recorded. (4-15-98)

04. Holding Check Scale Log Loads. All log loads involved in an unacceptable check scale will be held at the point of the check scale until such time as the logs have been reviewed with the scaler, or for a period up to forty- eight (48) hours. (4-15-98)

a. During this period the load(s) shall not be moved or tampered with in any way. (4-15-98)

b. The Board's check scaler shall affix a tag to all loads which must be held, and notify the scaler and landing supervisors respectively. (4-15-98)

**IDAPA 20 - DEPARTMENT OF LANDS
IDAHO BOARD OF SCALING PRACTICES**

**20.06.03 - MEASUREMENT RULES FOR FOREST PRODUCTS OF THE
IDAHO BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0603-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 38-1208 and 38-1220(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The Idaho Board of Scaling Practices proposes to repeal Chapter 20.06.03, "Measurement Rules," in its entirety because it will no longer be needed. Instead, log scaling measurement rules will be reflected in the Idaho Log Scaling Manual and all administrative rules will be stated in one revised chapter.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, page 64.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ernie Bauer, phone 208-769-1445. The Idaho Log Scaling Manual and proposed rules are available at: www.ibsp.idaho.gov (the Idaho Board of Scaling Practices website).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 4th day of August, 2008.

Ernest H. Bauer, Executive Director
Department of Lands/Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, ID 83815

Phone: 208-769-1445, Fax: 208-769-1524
Email: ebauer@ibsp.idaho.gov
Web: www.ibsp.idaho.gov

IDAPA 20.06.03 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

DOCKET NO. 21-0104-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2008 Idaho Administrative Bulletin, Vol. 08-7, pages 65 and 66.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1907, Idaho Code.

The fees for interment, disinterment, and reinterment are the amount of reimbursement paid by the United States Department of Veterans Affairs. The Division will receive additional funds to cover the costs of interment, disinterment, and reinterment.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770.

DATED this 28th day of July, 2008.

David E. Brasuell, Administrator
Division of Veterans Services
320 Collins Road, Boise, ID 83702
Phone: (208) 334-351 / Fax: (208) 334-2627

DOCKET NO. 21-0104-0801 - ADOPTION OF PENDING FEE 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 08-7, July 2, 2008, pages 65 and 66.

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 21 - DIVISION OF VETERANS SERVICES

21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

DOCKET NO. 21-0104-0802

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The public has assembled on the upper level of the cemetery by the flag pole to watch fireworks displays throughout the valley, bringing with them beverage coolers, blankets, BBQ equipment, etc., and having an outing prior to the evening fireworks. Although a very advantageous spot to watch the fireworks, the cemetery is not an appropriate place for such activity. The rule change is necessary to provide that the cemetery will be closed at 6 p.m. when fireworks displays are planned on the order of the Division Administrator.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 16th day of July, 2008.

David E. Brasuell, Administrator
Division of Veterans Services
320 Collins Road, Boise, ID 83702
Phone: (208) 334-351 / Fax: (208) 334-2627

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0104-0802

030. CEMETERY USE.

01. Public Use. The cemetery will be open to public access from 8 a.m. to sunset daily. The Administrator may close the cemetery at 6 p.m. when a public fireworks display is planned. (5-3-03)()

02. Interment Schedule. Cemetery staff will schedule interments to ensure that cemetery staff completes their duties between the hours of 8 a.m. and 5 p.m. Cemetery staff will not schedule interments on Saturdays, Sundays and legal holidays without the prior approval of the Administrator. (5-3-03)

IDAPA 22 - BOARD OF MEDICINE

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

DOCKET NO. 22-0101-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1806 (2) (4) and (11) and 54-1806A, 54-1812, 54-1813, 54-1814 and 54-1841, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

1. Augment the existing language to include licensure by endorsement;
2. Include a requirement for licensees to serve as panelists for the prelitigation consideration of medical malpractice claims;
3. Enumerate the amount of medical malpractice judgments or settlements to disclose;
4. Anticipate changes to the United States Medical Licensing Exam (USMLE); and
5. Clarify and update the rules.

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

There will be no increase in fees. Authority for imposition of these fees is found in Sections 54-1806 (11), 54-1808 and 54-1813, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted, however, the Board received input and comments regarding licensure from the public, medical community, and members of the Federation of United State Medical Boards.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 30th day of July, 2008.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Dr., Ste. 140, Boise, ID
PO Box 83720-0058, Boise, ID 83720-0085
Telephone: (208) 327-7000
Fax: (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0101-0801

050. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

01. Residence. No period of residence in Idaho shall be required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request only. The Board shall refuse licensure or renew a license if the applicant is not lawfully present in the United States. (3-26-08)

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

03. English Language. Each applicant shall speak, write, read, understand and be understood in the English language. Evidence of proficiency in the English language must be provided upon request only. (3-26-08)

04. Application. Each applicant must have graduated from an acceptable school of medicine, passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed ~~all three (3) steps of~~ the United States Medical Licensing Exam (USMLE) and completed one (1) year of postgraduate training approved by the ACGME, AOA or Royal College of Physicians and Surgeons of Canada, and shall submit a completed written application to the Board on forms prescribed by the Board with the nonrefundable application fee. Any certificate or document required to be submitted to the Board which is not in the English language must be accompanied by a certified translation thereof into English. The application form shall be verified and shall require the following: ~~(3-26-08)~~(____)

a. Personal identification information and education background of the applicant including, but limited to, his college education, medical school education and postgraduate training; (3-26-08)

b. An original certificate or document of graduation from an acceptable school of medicine, and evidence of satisfactory completion of postgraduate training of one (1) year at one (1) training program accredited for internship, residency or fellowship training by the ACGME, AOA or Royal College of Physicians and Surgeons of Canada; (3-26-08)

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

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

e. The disclosure of any past or pending medical malpractice actions against the applicant, and the judgments or settlements, if any, of such claims exceeding fifty thousand dollars (\$50,000); ~~(7-1-93)~~(____)

f. The disclosure of any disciplinary action by any board of medicine, licensing authority, medical society, professional society, hospital, medical school, or institution staff in any state or country; (3-26-08)

g. The disclosure of the refusal to issue or renew a license to practice medicine by any state, Canadian or international licensing authority; (3-26-08)

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

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

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

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

l. Each state, country and jurisdiction in which the applicant has applied for a license to practice medicine; (3-26-08)

m. Each state, country and jurisdiction wherein the applicant is licensed to practice medicine; and (3-26-08)

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

05. Examination. Each applicant must pass an examination acceptable to the Board, within the time period recommended by the examination authority, which shall thoroughly test the applicant's fitness to practice medicine or successfully completed ~~all three (3) steps of~~ the United States Medical Licensing Exam (USMLE). If an applicant fails to pass the examination on two (2) separate occasions the applicant may be required to be interviewed, evaluated or examined by the Board. (~~3-26-08~~)(____)

06. Interview. Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicant's qualifications and professional credentials. (3-30-01)

07. Applicants. All applicants must complete their license application within one (1) year unless extended by the Board after filing an application for extension. Unless extended, applications that remain on file for more than one (1) year will be considered null and void and a new application and new fees will be required as if filing for the first time. (3-30-06)

08. Health Care Standards. In reviewing the application or conducting the applicant's interview, the Board shall determine whether the applicant possesses the requisite qualifications to provide the same standard of health care as provided by licensed physicians in this state. If the Board is unable to reach such a conclusion through the application and interview, it shall conduct further inquiry, to establish such qualifications. (3-30-06)

a. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the FSMB, a post licensure assessment conducted by the FSMB, or an evaluation by an independent agency accepted by the Board to evaluate physician competence. (~~3-26-08~~)(____)

b. The Board will require further inquiry when in its judgment the need is apparent, including but not limited to the following circumstances: (3-30-06)

i. Graduate of an international medical school located outside the United States and Canada and not accredited by the LCME; (~~3-26-08~~)(____)

ii. Applicant whose background investigation reveals evidence of impairment, competency deficit, or disciplinary action by any licensing or regulatory agency; (3-26-08)

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

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

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

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

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

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

01. International Medical Graduate. In addition to meeting the requirements of Section 050, graduates of international medical schools located outside of the United States and Canada must submit to the Board: (3-26-08)

a. Original certificate from the ECFMG or original documentation that the applicant has passed the examination either administered or recognized by the ECFMG and passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed ~~all three (3) steps of~~ the United States Medical Licensing Exam (USMLE). (~~3-26-08~~)()

b. Original documentation directly from the international medical school which establishes to the satisfaction of the Board that the international medical school meets the standards for medical educational facilities set forth in Subsection 051.02, and that both the scope and content of the applicant's coursework and performance were equivalent to those required of students of medical schools accredited by the LCME; (3-26-08)

c. Original documentation directly from the international medical school that it has not been disapproved or has its authorization, accreditation, certification or approval denied or removed by any state, country or territorial jurisdiction and that to its knowledge no state of the United States or any country or territorial jurisdiction has refused to license its graduates on the grounds that the school fails to meet reasonable standards for medical education facilities; (3-26-08)

d. A complete and original transcript from the international medical school showing successful completion of all the courses taken and grades received and original documentation of successful completion of all clinical coursework; and (3-26-08)

e. Original documentation of successful completion of three (3) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada. (3-26-08)

f. ECFMG. The certificate from the ECFMG is not required if the applicant holds a license to practice medicine which was issued prior to 1958 in one (1) of the states of the United States and which was obtained by written examination. (3-26-08)

02. International Medical School Requirements. (3-26-08)

a. An international medical school, as listed in the World Health Organization Directory of Medical Schools, which issued its first doctor of medicine degree less than fifteen (15) years prior to an application for licensure, must provide documented evidence of degree equivalency acceptable to the Board including, but not limited to: (3-26-08)

i. The doctor of medicine degrees issued must be substantially equivalent to the degrees issued by acceptable medical schools located within the United States or Canada. Equivalency shall be demonstrated, in part, by original documentation of a medical curriculum of not less than thirty-two (32) months, or its equivalent, of full-time classroom instruction and supervised clinical coursework. Such clinical coursework shall be in a hospital or hospitals that, at the time of the applicant's coursework, documented its evaluation of the applicant's performance in writing as a basis for academic credit by the medical school; (3-26-08)

ii. The medical school's admission requirements, including undergraduate academic subject

requirements, entrance examination scores, and core curriculum are substantially equivalent to medical schools located within the United States or Canada; (3-26-08)

iii. The medical school has adequate learning facilities, class attendance, medical instruction, and clinical rotations consistent with quality medical education. (3-26-08)

iv. The medical school has not been disapproved or has its authorization, accreditation, certification, licensure, or approval denied or removed by any state, country or territorial jurisdiction; and (3-26-08)

v. The medical school does not issue diplomas, confer degrees or allow graduation based on Internet or on-line courses inconsistent with quality medical education. (3-26-08)

b. An international medical school, as listed in the World Health Organization Directory of Medical Schools, which issued its first doctor of medicine degree more than fifteen (15) years prior to an application for licensure, may, in the Board's discretion, be required to provide original documented evidence of degree equivalency acceptable to the Board. (3-26-08)

(BREAK IN CONTINUITY OF SECTIONS)

053. LICENSURE BY ENDORSEMENT.

An applicant, in good standing with no restrictions upon or actions taken against his license to practice medicine and surgery in a state, territory or district of the United States or Canada is eligible for licensure by endorsement to practice medicine in Idaho. An applicant with any disciplinary action, whether past, pending, public or confidential, by any board of medicine, licensing authority, medical society, professional society, hospital, medical school or institution staff in any state, territory, district or country is not eligible for licensure by endorsement. An applicant ineligible for licensure by endorsement may make a full and complete application pursuant to the requirements of Sections 050, 051 or 052. ()

01. Character. An applicant is not eligible for licensure by endorsement if the Board finds the applicant has engaged in conduct prohibited by Section 54-1814, Idaho Code. ()

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

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

04. Application. The applicant shall submit a completed written application to the Board on forms furnished by the Board with the necessary nonrefundable application fee. Any certificate or document required to be submitted to the Board which is not in the English language must be accompanied by a certified translation thereof into English. The application form shall be verified and shall require the original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board or a Board approved credential verification service of the following: ()

a. Current, valid, unrevoked, unsuspended, undisciplined license to practice medicine and surgery in a state, territory or district of the United States or Canada shall constitute prima facie evidence of graduation from an acceptable school of medicine, successful completion of the United States Medical Licensing Exam (USMLE) and completion of one (1) year of postgraduate training approved by the ACGME, AOA or Royal College of Physicians and Surgeons of Canada; ()

b. Current board certification by a specialty board approved by the American Board of Medical Specialties or AOA; ()

c. Five (5) years of contemporaneous active, unrestricted, clinical practice of medicine and surgery as a licensee of a state, territory or district of the United States or Canada; ()

d. Disclosure of any past or current mental and physical condition of the applicant, together with disclosure of any previous physical or mental illness which may impact the applicant's ability to practice medicine; ()

e. Disclosure of past or pending medical malpractice actions against the applicant within the last ten (10) years and the judgments or settlements, if any, of such claims which exceed fifty thousand dollars (\$50,000); ()

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

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

05. Affidavit. An applicant shall provide the Board an Affidavit swearing that all the information he provides and all of his application answers are true and correct and that he is on notice that any false statement, omission, misrepresentation, or dishonest answer is a ground for denial of his application or revocation of his license. ()

0534. -- 075. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

081. PHYSICIAN PANELIST FOR PRELITIGATION CONSIDERATION OF MEDICAL MALPRACTICE CLAIMS.

01. Purpose. The purpose of serving as a physician panelist for prelitigation consideration of medical malpractice claims is to cooperate in the prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide hospital or medical care in Idaho and to accept and hear complaints of such negligence and damages, made by or on behalf of any patient who is an alleged victim of such negligence. ()

02. Eligibility. A physician licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall be available to serve in any two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman, as a physician panelist for prelitigation consideration of a medical malpractice claim. ()

03. Excusing Physicians from Serving. A physician panelist so selected shall serve unless he had served on a prelitigation panel during any previous two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman or for good cause shown, is excused by the panel chairman. To show good cause for relief from serving, the selected physician panelist shall present an affidavit to the panel chairman which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The panel chairman shall have the sole authority to excuse a selected physician from serving on a prelitigation panel. ()

04. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any physician whom the Board determines has failed to serve as a physician panelist for the prelitigation consideration of a medical malpractice claim. ()

0812. -- 099. (RESERVED).

IDAPA 22 - BOARD OF MEDICINE

22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

DOCKET NO. 22-0103-0801 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1806 (2) and (11) and 54-1807 (2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

1. Augment the existing language to include application requirements and lawful presence in the United States;
2. Clarify the requirement to submit certification examination results;
3. Elucidate delivery of medication;
4. Broaden the fee schedules in anticipation of increasing real costs of administration;
5. Add a provision for volunteer licenses; and
6. Clarify and update the rules.

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

The fee schedule has been broadened, however, there will be no increase in fees. Authority for imposition of these fees is found in Sections 54-1806 (11) and 54-1807 (2), Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted, however, the Board received input and comments regarding licensure from physician assistants, the public, medical community and members of the Federation of United State Medical Boards.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this July 30, 2008.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Dr., Ste. 140, Boise, ID
PO Box 83720-0058, Boise, ID 83720-0085
Telephone: (208) 327-7000
Fax: (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0103-0801

008. SEVERABILITY.

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

~~008.~~—009. (RESERVED).

010. DEFINITIONS.

01. Alternate Supervising Physician. A physician registered with the Board, as set forth in IDAPA 22.01.04, “Rules of the Board of Medicine for Registration of Supervising and Directing Physicians,” under an agreement as defined in these rules, who is responsible for supervising the physician assistant or graduate physician assistant in the temporary absence of the supervising physician. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of such licensee being supervised. An alternate supervising physician shall not supervise more than three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-16-04)

02. Approved Program. A course of study for the education and training of physician assistants which is accredited by the Committee on Allied Health Education and Accreditation, the Commission on Accreditation of Allied Health Education Programs, the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or equivalent agency recognized by the Board as recommended by the Committee. (3-16-04)

03. Board. The Idaho State Board of Medicine established pursuant to Section 54-1805, Idaho Code. (3-16-04)

04. Delegation of Services (DOS) Agreement. A written document mutually agreed upon and signed and dated by the licensed physician assistant or graduate physician assistant and supervising and alternate supervising physician that defines the working relationship and delegation of duties between the supervising physician and the licensee as specified by Board rule. The Board shall review the written delegation of services agreement and may review job descriptions, policy statements, or other documents that define the responsibilities of the physician assistant or graduate physician assistant in the practice setting, and may require such changes as needed to achieve compliance with these rules, and to safeguard the public. ~~(3-16-04)~~()

05. Graduate Physician Assistant. A person who is a graduate of an approved program for the education and training of physician assistants and who meets all the requirements in this chapter for Idaho licensure, but: (3-16-04)

a. Has not yet taken and passed the certification examination and who has been authorized by the Board, as defined in Subsection 036.01 of these rules, to render patient services under the direction of a supervising physician for a period of six (6) months; or (3-16-04)

b. Has passed the certification examination but who has not yet obtained a college baccalaureate degree and who has been authorized by the Board, as defined in Subsection 036.02 of these rules, to render patient services under the direction of a supervising physician for a period of not more than five (5) years. (3-16-04)

06. Physician. A physician who holds a current active license issued by the Board to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restrictions upon or actions taken against his license. (3-16-04)

07. Physician Assistant. A person who is a graduate of an approved program and who is qualified by specialized education, training, experience and personal character, as defined in Section 021 of these rules, and who

has been licensed by the Board to render patient services under the direction of a supervising and alternate supervising physician. (3-16-04)()

08. Physician Assistant Trainee. A person who is undergoing training at an approved program as a physician assistant and registered with the Board. (3-16-04)

09. Supervision. The direction and oversight of the activities of and patient services provided by a physician assistant or graduate physician assistant by a supervising physician or alternate supervising physician who accepts full medical responsibility with respect thereto. The constant physical presence of the supervising or alternate supervising physician is not required as long as the supervisor and such licensee are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision shall be outlined in a delegation of services agreement, as defined in Subsection 030.03 of these rules. (3-16-04)()

10. Supervising Physician. A physician registered by the Board, as set forth in IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians," and under an agreement as defined in Subsection 030.03 of these rules, who is responsible for the direction and supervision of the activities of and patient services provided by the physician assistant or graduate physician assistant. The supervising physician accepts full medical responsibility for the activities of and patient services provided by such licensee. A supervising physician shall not supervise more than a total of three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

020. APPLICATION.

01. License Applications. All applications for licensure as physician assistants and graduate physician assistants shall be made to the Board on forms supplied by the Board and include payment of the prescribed fees, the nonrefundable application fee. The application form shall be verified and shall require the following: (3-16-04)()

a. Certificate of graduation from an approved program as defined in Subsection 010.03 and evidence of having received a college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board. ()

b. The disclosure of any criminal charges, convictions or guilty pleas against the applicant other than minor traffic offenses; ()

c. The current mental and physical condition of the applicant, together with disclosure of any previous physical or mental illness which may impact the applicant's ability to render patient services as a physician assistant or graduate physician assistant; ()

d. The disclosure of any past or pending medical malpractice actions against the applicant, and the judgments or settlements, if any, of such claims exceeding fifty thousand dollars (\$50,000); ()

e. The disclosure of any disciplinary action by any country or state board of medicine, medical society, professional society, hospital or institution staff; ()

f. The disclosure of the refusal to issue or renew a license to render patient services as a physician assistant or graduate physician assistant by any state, Canadian or foreign licensing authority; ()

g. References to include one (1) letter of recommendation signed by licensed physician who have

known the applicant professionally for at least one (1) year: ()

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

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

j. The employment history and past practice locations of the applicant: ()

k. Each state or country in which the applicant has applied for a license to practice as physician assistant or graduate physician assistant: ()

l. Each state or country wherein the applicant is licensed to practice as physician assistant or graduate physician assistant; and ()

m. Such other information or examinations as the Board deems necessary to identify and evaluate the applicant's credentials and competency. ()

02. Reapplication. If more than two (2) years have elapsed since a licensed physician assistant or graduate physician assistant has actively engaged in practice, reapplication to the Board as a new applicant is required. The Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-16-04)

03. Application Expiration. An application for licensure that is not granted or license not issued within one (1) year from the date the application is received by the Board shall expire. However, the applicant may make a written request to the Board to consider his application on an individual basis. In its discretion, the Committee may make a determination if extraordinary circumstances exist that justify extending the one (1) year time period up to an additional one (1) year. The Committee can recommend to the Board to grant the request for such extension of time. The Board shall make all final decisions with respect thereto. (3-16-04)

021. REQUIREMENTS FOR LICENSURE.

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

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

03. Educational Requirement. Applicants for licensure shall have completed an approved program as defined in Subsection 010.03 and shall provide evidence of having received a college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board. (3-16-04)

04. National Certifying Examination. Satisfactory completion and passage of the certifying examination for physician assistants, administered by the National Commission of Certification of Physician Assistants (NCCPA) or such other examinations, which may be written, oral or practical, as the Board may require. (3-19-99)()

05. Personal Interview. The Board may at its discretion, require the applicant or the supervising physician or both to appear for a personal interview. (3-19-99)

046. Completion of Form. (3-16-04)

a. If the applicant is to practice in Idaho, he must submit payment of the prescribed fee and a completed form provided by the Board indicating: (3-16-04)

i. The applicant has completed a delegation of services agreement signed by the applicant, supervising physician and alternate supervising physicians; and (3-16-04)

ii. The agreement is on file at each practice location and the address of record of the supervising physician and at the central office of the Board; or (3-16-04)

b. If the applicant is not to practice in Idaho, he must submit payment of the prescribed fee and a completed form provided by the Board indicating the applicant is not practicing in Idaho and prior to practicing in Idaho, the applicant will meet the requirements of Subsections 021.04.a.i. and 021.04.a.ii. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

028. SCOPE OF PRACTICE.

01. Scope. The scope of practice of physician assistants and graduate physician assistants shall be defined in the delegation of services and may include a broad range of diagnostic, therapeutic and health promotion and disease prevention services. (3-16-04)

a. The scope of practice shall include only those duties and responsibilities delegated to the licensee by their supervising and alternate supervising physician and in accordance with the delegation of services agreement. (~~3-16-04~~)()

b. The scope of practice may include prescribing, administering, and dispensing of medical devices and drugs, including the administration of a local anesthetic injected subcutaneously, digital blocks, or the application of topical anesthetics, while working under the supervision of a licensed medical physician. Physician assistants and graduate physician assistants shall not administer or monitor general or regional block anesthesia during diagnostic tests, surgery, or obstetric procedures. (3-16-04)

c. Physician assistants and graduate physician assistants are agents of their supervising and alternate supervising physician in the performance of all practice-related activities and patient services. (~~3-16-04~~)()

d. A supervising physician shall not supervise more than a total of three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. An alternate supervising physician shall not supervise more than three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-16-04)

02. Practice. Initiate appropriate laboratory or diagnostic studies, or both, to screen or evaluate the patient's health status and interpret reported information in accordance with knowledge of the laboratory or diagnostic studies, provided such laboratory or diagnostic studies are related to and consistent with the licensee's scope of practice. The scope of practice shall be limited to patient services under the supervision of the supervising or alternate supervising physician: (~~3-16-04~~)()

a. Within the education, training and experience of the physician assistant or graduate physician assistant; and (~~3-16-04~~)()

b. Consistent with the expertise and regular scope of practice of the supervising and alternate supervising physician; ~~and.~~ (3-16-04)()

029. CONTINUING EDUCATION REQUIREMENTS.

01. Continuing Competence. A physician assistant or graduate physician assistant may be required by the Board at any time to demonstrate continuing competence in the performance of any practice related activity or patient service. (3-16-04)

02. Requirements for Renewal. ()

a. Every other year, and prior to renewal of each license as set forth by the expiration date on the face of the certificate, physician assistants and graduate physician assistants will be required to present evidence of having received one hundred (100) hours of continuing medical education over a two-year period. The courses and credits shall be subject to approval of the Board. (3-16-04)

b. Every other year, and prior to renewal of each license as set forth by the expiration date on the face of the certificate, physician assistant shall submit verified evidence and/or shall require the original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board of NCCPA certification maintenance and passage of the Physician Assistant National Recertifying Exam (PANRE). ()

030. PRACTICE STANDARDS.

01. Identification. The physician assistant, graduate physician assistant and physician assistant trainee must at all times when on duty wear a placard or plate so identifying himself. (3-16-04)

02. Advertise. No physician assistant, graduate physician assistant or physician assistant trainee may advertise or represent himself either directly or indirectly, as a physician. (3-16-04)

03. Delegation of Services Agreement. Each licensed physician assistant and graduate physician assistant shall maintain a current copy of a Delegation of Services (DOS) Agreement between the licensee and each of his supervising and alternate supervising physicians. The delegation of services agreement, made upon a form provided by the Board, shall include a listing of the licensee's training, experience and education, and defines the patient services to be delegated. It is the responsibility of the licensee and supervising physician to maintain a current delegation of services agreement. All specialized procedures that need prior review and approval by the Board will be listed on the delegation of services agreement form supplied by the Board. Prior to provision, all licensees requesting to provide any of the listed services will be required to send their delegation of services agreement to the Board for approval. The Board may require the supervising physician to provide written information, which will include his affidavit attesting to the licensee's qualifications and clinical abilities to perform the specific procedures listed in the delegation of services agreement. This agreement shall be sent to the Board and must be maintained on file at each practice location and at the address of record of the supervising and alternate supervising physician. The Committee will review this agreement in conjunction with and make recommendations to the Board. The Board may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 18, Idaho Code, and to safeguard the public. This agreement shall include: (3-16-04)()

a. Documentation of the licensee's education, training, and experience and a listing of the specific patient services which will be performed by the licensee; (3-16-04)()

b. The specific locations and facilities in which the licensee will function; and (3-16-04)

c. The written plans and methods to be used to ensure responsible direction and control of the activities and patient services rendered by the licensee which shall provide for: (3-16-04)

i. An on-site visit at least monthly; (3-19-99)

- ii. Regularly scheduled conferences between the supervising physician and the licensee; (3-16-04)
 - iii. Periodic review of a representative sample of records and a periodic review of the patient services being provided by the licensee. This review shall also include an evaluation of adherence to the delegation of services agreement; (3-16-04)
 - iv. Availability of the supervising and alternate supervising physician to the licensee in person or by telephone and procedures for providing backup and supervision in emergency situations; and ~~(3-16-04)~~(____)
 - v. Procedures for addressing situations outside the scope of practice of the licensee. (3-16-04)
- d.** The drug categories or specific legend drugs and controlled drugs, Schedule II through V that will be prescribed provided that the legend drugs and controlled drugs shall be consistent with the regular prescriptive practice of the supervising physician. (3-15-02)
- 04. On-Site Review.** The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of physician assistants or graduate physician assistants and the locations and facilities in which the licensees practice at such times as the Board deems necessary. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

036. GRADUATE PHYSICIAN ASSISTANT.

- 01. Licensure Prior to Certification Examination -- Board Consideration.** Any person who has graduated from an approved program and meets all Idaho requirements, including achieving a college baccalaureate degree, but has not yet taken and passed the certification examination, may be considered by the Board for licensure as a graduate physician assistant for six (6) months when: (3-16-04)
- a.** An application for licensure as a graduate physician assistant has been submitted to the Board on forms supplied by the Board and payment of the prescribed fee. (3-16-04)
 - b.** The applicant ~~promptly notifies~~ shall submit to the Board, within ten (10) business days of receipt, a copy of acknowledgement of sitting for the national certification examination. The applicant shall also submit to the Board, within ten (10) business days of receipt, a copy of the national certification examination results. ~~(3-16-04)~~(____)
 - c.** After the graduate physician assistant has passed the certification examination, the Board must receive verification of national certification directly from the certifying entity. Once the verification is received by the Board, the graduate physician assistant's license will be converted to a permanent license and he may apply for prescribing authority pursuant to Section 042 of these rules. (3-16-04)
 - d.** The applicant who has failed the certification examination one (1) time, may petition the Board for a one-time extension of his graduate physician assistant license for an additional six (6) months. (3-16-04)
 - e.** If the graduate physician assistant fails to pass the certifying examination on two (2) separate occasions, the graduate physician assistant's license shall automatically be canceled upon receipt of the second failing certification examination score. (3-16-04)
 - f.** The graduate physician assistant applicant shall agree to execute an authorization for the release of information, attached to his application as Exhibit A, authorizing the Board or its designated agents, having information relevant to the application, including but not limited to the status of the certification examination, to release such information, as necessary, to his supervising physician. (3-16-04)
- 02. Licensure Prior to College Baccalaureate Degree -- Board Consideration.** Licensure as a

graduate physician assistant may also be considered upon application made to the Board on forms supplied by the Board and payment of the prescribed fee when: (3-16-04)

a. All application requirements have been met as set forth in Section 021, except receipt of documentation of a college baccalaureate degree. A college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board shall be completed within five (5) years of initial licensure in Idaho; (3-16-04)

b. A personal interview with the applicant or the supervising physician or both may be required and will be conducted by a designated member of the Board; and (3-16-04)

c. A plan shall be submitted with the application and shall be approved by the Board for the completion of the college baccalaureate degree. (3-16-04)

03. No Prescribing Authority. ~~Graduate P~~physician assistants ~~operating under a graduate physician assistant license~~ shall not be entitled to issue any written or oral prescriptions and shall be required to have a weekly record review by their supervising physician. ~~(3-16-04)~~(____)

037. DISCIPLINARY PROCEEDINGS AND NOTIFICATION OF CHANGE.

01. Discipline. Every person licensed as a physician assistant or graduate physician assistant is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-1806A, Idaho Code and the Administrative Procedures Act. (3-16-04)

02. Grounds for Discipline. In addition to the grounds for discipline set forth in Section 54-1814, Idaho Code and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Section 101, persons licensed under these rules are subject to discipline upon the following grounds if that person: (3-16-04)

a. Held himself out, or permitted another to represent him, to be a licensed physician; (3-16-04)

b. Had in fact performed otherwise than at the discretion and under the supervision of a physician licensed by and registered with the Board; (3-16-04)

c. Performed a task or tasks beyond the scope of activities allowed by Section 028; (3-16-04)

d. Is a habitual or excessive user of intoxicants or drugs; (3-16-04)

e. Demonstrated manifest incapacity to carry out the functions of a physician assistant or graduate physician assistant; (3-16-04)

f. Failed to complete or maintain a current copy of the delegation of services agreement as specified by Section 030; (3-16-04)

g. Failed to notify the Board of a change or addition of a supervising or alternate supervising physician within two (2) weeks of the change as specified by Subsection 037.03; (3-16-04)

h. Aided or abetted a person not licensed in this state who directly or indirectly performs activities requiring a license; (3-16-04)

i. Failed to report to the Board any known act or omission of a licensee, applicant, or any other person, which violates any provision of these rules; or (3-16-04)

j. Interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action. (3-16-04)

k. Failed to submit to the Board, within ten (10) business days of receipt, a copy of acknowledgement of sitting for the national certification examination, and failed to submit a copy of the national certification examination results within ten (10) business days of receipt. ()

03. Notification of Change or Addition of Supervising or Alternate Supervising Physician. A physician assistant or graduate physician assistant must notify the Board within two (2) weeks upon changing supervising physicians or alternate supervising physicians or adding an additional supervising physician. Such notification shall include: (3-16-04)

a. The name, business address and telephone of the new or additional supervising physician or alternate supervising physician(s); (3-16-04)

b. The name, business address, and telephone number of the physician assistant or graduate physician assistant; and (3-16-04)

c. Comply with the requirements of Subsection 030.03. (3-16-04)

d. All supervising physicians and alternate supervising physicians must comply with the requirements of IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians." (3-16-04)

038. -- 040. (RESERVED).

041. PHYSICIAN ASSISTANT TRAINEE.

01. Registration in Training. Any person undergoing training at an approved program as a physician assistant must register with the Board as a trainee, and must comply with the rules as set forth herein. All applications for registration shall be made to the Board on forms supplied by the Board and include payment of the prescribed fee. All registrations shall be dependent upon the length of an approved program and shall be issued for a period of not more than two (2) years. All registrations shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date. All applications for an extension of not more than two (2) years of current registration as a physician assistant trainee shall be made to the Board on forms supplied by the Board and include payment of the prescribed fee. (3-16-04)

02. Approved Program. Notwithstanding any other provision of these rules, a trainee may perform patient services when such services are rendered within the scope of an approved program. (7-1-93)

03. Registration Fees. The nonrefundable fee for registration as physician assistant trainee shall be no more than ~~fifty one hundred~~ dollars (\$5100). The nonrefundable fee for a one (1) time extension of a current registration as physician assistant trainee shall be no more than ~~fifty one hundred~~ dollars (\$5100). (~~3-16-04~~)()

042. PRESCRIPTION WRITING.

01. Approval and Authorization Required. A physician assistant may issue written or oral prescriptions for legend drugs and controlled drugs, Schedule II through V only in accordance with approval and authorization granted by the Board and in accordance with the current delegation of services agreement and shall be consistent with the regular prescriptive practice of the supervising or alternate supervising physician. (~~3-15-02~~)()

02. Application. A physician assistant who wishes to apply for prescription writing authority shall submit to the Board an application for such purpose on forms supplied by the Board. In addition to the information contained in the general application for physician assistant approval, the application for prescription writing authority shall include the following information: (3-16-04)

a. Documentation of all pharmacology course content completed, the length and whether a passing grade was achieved (at least thirty (30) hours). (7-1-93)

b. A statement of the frequency with which the supervising physician will review prescriptions written or issued. (3-16-04)

c. A signed affidavit from the supervising physician certifying that, in the opinion of the supervising physician, the physician assistant is qualified to prescribe the drugs for which the physician assistant is seeking approval and authorization. (3-16-04)

d. The physician assistant to be authorized to prescribe Schedule II through V drugs shall be registered with the Federal Drug Enforcement Administration and the Idaho Board of Pharmacy. (3-15-02)

03. Prescription Forms. Prescription forms used by the physician assistant must be printed with the name, address, and telephone number of the physician assistant and of the supervising physician. A physician assistant shall not write prescriptions or complete or issue prescription blanks previously signed by any physician. (3-16-04)

04. Record Keeping. The physician assistant shall maintain accurate records, accounting for all prescriptions issued and medication delivered. (3-16-04)

05. Pharmaceutical Samples. The physician assistant who has prescriptive authority may request, receive, sign for and distribute professional samples of drugs and devices in accordance with his current delegation of services agreement and consistent with the regular prescriptive practice of the supervising physician. (3-16-04)

043. DELIVERY OF MEDICATION.

01. Pre-Dispensed Medication. The physician assistant may legally provide a patient with more than one (1) dose of a pre-dispensed medication ~~at sites or at times when a pharmacist is not available upon obtaining formal prior approval from the Board.~~ The pre-dispensed medications shall be provided for an emergency limited period to be determined on the basis of individual circumstances, ~~but the emergency period will extend only until a prescription can be obtained from a pharmacy.~~ (3-19-99)(____)

02. Consultant Pharmacist. The physician assistant shall have a consultant pharmacist responsible for providing the physician assistant with pre-dispensed medication in accordance with federal and state statutes for packaging, labeling, and storage. (3-19-99)

03. Limitation of Items. The pre-dispensed medication shall be limited to only those categories of drug identified in the delegation of services agreement and consistent with the regular prescriptive practice of the supervising physician, except a physician assistant may provide other necessary emergency medication to the patient as directed by a physician. (3-19-99)(____)

04. Exception From Emergency Limited Period. Physician assistants in agencies, clinics or both, providing family planning, communicable disease and chronic disease services under government contract or grant may provide pre-dispensed medication for these specific services and shall be exempt from the emergency limited period upon obtaining formal prior approval from the Board. ~~Physician assistants in agencies, clinics or both, in remote sites without pharmacies shall be exempt from the emergency period, providing that they must submit an application and obtain formal approval from the Board.~~ (3-16-04)(____)

044. -- 050. (RESERVED).

051. FEES -- LICENSE ISSUANCE, RENEWAL, CANCELLATION AND REINSTATEMENT.

All licenses to practice as a physician assistant or graduate physician assistant shall be issued for a period of not more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year. The failure of any person to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Title 67, Chapter 52, Idaho Code. (3-16-04)

01. Licensure Fee. The fee for initial licensure shall be no more than two hundred ~~twenty~~ fifty dollars

(\$2250) for a physician assistant and graduate physician assistant. ~~(3-16-04)~~()

02. License Renewal Fee. The Board shall collect a fee of no more than one hundred fifty dollars (\$1050) for each renewal year of a license. ~~(3-16-04)~~()

03. License Cancellation. (3-16-04)

a. Failure to renew a license to practice as a physician assistant and pay the renewal fee shall cause the license to be canceled. However, such license can be renewed up to two (2) years following cancellation by payment of past renewal fees, plus a penalty fee of ~~twenty-five~~ fifty dollars (\$250). After two (2) years, an initial application for licensure with payment of the appropriate fee shall be filed with the Board. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ~~(3-16-04)~~()

b. Failure to renew a license to practice as a graduate physician assistant and pay the renewal fee shall cause the license to be canceled. However, such license can be renewed up to six (6) months following cancellation by payment of the past renewal fee, plus a penalty fee of no more than ~~fifty one hundred~~ one hundred dollars (\$~~5100~~100). After six (6) months, an original application for licensure with payment of the appropriate fee shall be filed with the Board. ~~(3-16-04)~~()

04. Inactive License. (3-16-04)

a. A person holding a current license issued by the Board to practice as a physician assistant may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of patient services as a physician assistant in this state. An initial inactive license fee of no more than one hundred fifty dollars (\$150) shall be collected by the Board. (3-16-04)

b. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than one hundred dollars (\$100) for each renewal year. The inactive license certificate shall set forth its date of expiration. (3-16-04)

c. An inactive license may be converted to an active license to practice as a physician assistant upon written application and payment of required conversion fees of no more than one hundred fifty dollars (\$150) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-16-04)

05. Volunteer License. ()

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

b. Retired Defined. A physician assistant previously holding a license to practice as a physician assistant in Idaho or another state shall be considered retired if, prior to the date of the application for a volunteer's license, he has: ()

i. Allowed his license with active status to expire with the intent of ceasing active practice as a physician assistant for remuneration; or ()

ii. Converted his active license to an inactive status with the intention of ceasing to actively practice physician assistant for remuneration; or ()

iii. Converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice as a physician assistant. ()

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

d. Application. The application for a volunteer license shall include the requirements listed in Section 021 of these rules and: ()

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

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

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1404, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

Under existing law, nurses currently holding valid licenses in other jurisdictions that are seeking licensure in Idaho are required to meet mandated rigid academic and examination obligations. While this is ordinarily very appropriate, in cases where nurses have been practicing safely for many years without any discipline in another jurisdiction, these rigid requirements may be an unnecessary artificial barrier to licensure in Idaho. The rule change, coupled with a corresponding statutory change and policy implementation, will permit the Board of Nursing to exercise sound discretion to waive strict adherence to these requirements where there is an adequate showing that the applying nurse is competent and has satisfied equivalency requirements set by the Board, and that the public safety will not be compromised. It is anticipated that this discretion will be exercised very sparingly. The rulemaking will permit the Board of Nursing to waive strict educational and examination requirements, in appropriate and very limited circumstances, for nurses currently licensed in another jurisdiction who are applying for licensure in Idaho.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sandra Evans, Executive Director, (208) 334-3110 x26.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 14th day of July, 2008.

Sandra Evans, MAEd., R.N.
Executive Director
Idaho Board of Nursing
280 N. 8th St., Ste. 210
P. O. Box 83720
Boise, ID 83720-0061
Phone: (208) 334-3110 x26
Fax: (208) 334-3262

THE FOLLOWING IS THE TEXT OF DOCKET NO. 23-0101-0801

240. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT.

An applicant for Idaho licensure by interstate endorsement must: (7-1-93)

01. Graduation Required. Be a graduate of a state approved/accredited practical or professional nursing education program that is substantially equivalent to Idaho's board-approved practical or professional nursing education program. Applicants for practical nurse licensure may also qualify under the provisions of Section 241 of these rules. (7-1-93)

032. Licensing Examination. Have taken the same licensing examination as that administered in Idaho and achieved scores established as passing for that examination by the Board, unless the applicant was licensed by examination prior to 1950. (6-11-93)

023. Minimum Requirements. In lieu of the requirements in Subsections 240.01 and 240.02 of this rule, # have qualifications that are substantially equivalent to Idaho's minimum requirements. (~~7-1-91~~)()

04. Current Practice Experience. Have actively practiced nursing at least eighty (80) hours within the preceding three (3) years. (3-30-07)

05. License from Another State or Territory. Hold a license in good standing from another state or territory of the United States. The license of any applicant subject to official investigation or disciplinary proceedings shall not be considered in good standing. (7-1-91)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.05.01 - RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2406, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The Board is adding a section to allow for termination of applications that have lacked activity for one year. This will help reduce the number of files that need to be maintained. Changes are being made to the requirements section to clarify the examination for backflow assembly testers. The Board is establishing the very small water system exam requirement as an option for operator in training. Changes to the education and experience subsection for very small water system operators will establish the hours of experience and courses required. These changes clarify requirements and streamline the process.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because item was placed on the agenda and posted with discussion held during the open meeting of the board with interested parties in attendance.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208)334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 5th day of August, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0501-0801

150. APPLICATION (RULE 150).

Each applicant for licensure shall submit a complete application together with the required fees. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. The Board shall not review an application until all required information is furnished and the required fees paid. (3-24-05)

01. Licensure by Examination. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. All applications shall include: (3-24-05)

a. Documentation of having met the appropriate educational requirement; (3-24-05)

b. Documentation of all actual applicable experience giving kind and type of work done, together with dates of employment, and verification by affidavit of the most current applicable experience, signed by the person under whose supervision the work was performed. (3-24-05)

02. Licensure by Endorsement. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. All applications shall include: (3-24-05)

a. Official documentation of licensure sent to the Bureau directly from each regulatory authority from which the applicant has obtained licensure. Such documentation shall note name, address, current status, date originally issued, expiration date, and any disciplinary action imposed; (3-24-05)

b. A copy of the current regulations governing licensure in each jurisdiction from which the applicant obtained licensure. (3-24-05)

03. Application Deadline. Completed applications must be received at least thirty (30) days prior to the next scheduled board meeting in order to be reviewed by the Board. (3-24-05)

04. Application Required. Applicants seeking licensure in any type or classification of licensure shall submit a separate application for each type and classification of licensure being sought. Applicants holding a current type and classification of license and who are seeking a classification upgrade within the same license type and category shall not be required to submit an original license fee with their application. (3-24-05)

05. Lack of Activity. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months shall be deemed denied and shall be terminated upon thirty (30) days written notice unless good cause is established to the Board. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. REQUIREMENTS FOR LICENSE (RULE 300).

Applicants shall submit an application together with the required fees and such documentation as is required. (3-24-05)

01. Examination Requirement. Applicants must pass a written examination for each individual classification in each type of licensure with a minimum score of seventy percent (70%). For those classifications of Class II through IV, successful completion of the examinations from the immediate lower type and classification shall be a prerequisite to examination eligibility for the next higher classification of the same type, except that applicants for wastewater collection operator or wastewater laboratory analyst or drinking water distribution operator licenses may apply for any classification examination for which they hold the required education and experience. (3-30-06)

a. The examination will reflect different levels of knowledge, ability and judgment required for the established license type and class. The Board will administer examinations at such times and places as the Board may determine. (3-24-05)

b. The examination for all types and classes of licensure shall be validated and provided by the Association of Boards of Certification (ABC). The American Backflow Prevention Association (ABPA) backflow assembly tester ~~licensure~~ examination is also approved for backflow assembly tester licensure. ~~(2-26-08)~~(____)

c. Applicants who fail an examination must make application to retake the same type and class examination and pay the required examination fees prior to retaking the examination. (3-24-05)

d. Applicants must take and pass the examination within one (1) year of application approval. After one (1) year a new application and applicable fees must be submitted. (3-30-07)

02. Education and Experience Requirements. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable. (3-24-05)

a. Each applicant for an Operator-In-Training License must have a high school diploma or GED and pass ~~the~~ Class I exam or pass the very small water system exam. ~~(3-30-06)~~(____)

b. To qualify for a Very Small Water System license an operator must have a high school diploma or GED and ~~six (6) months~~ one hundred (100) hours of acceptable operator-in-training experience at a water ~~distribution~~ system and complete an approved six (6) hour water treatment course and an approved six (6) hour water distribution course. ~~(3-24-05)~~(____)

c. To qualify for a Class I license an applicant must have a high school diploma or GED and one (1) year of acceptable experience at a Class I or higher system. To upgrade an OIT license to a Class I the applicant must provide documented proof to the Board of having completed one (1) year of supervised operating experience in a Class I or higher public drinking water or wastewater system, and payment of the required fees. (2-26-08)

d. To qualify for a Class II treatment or lab analyst license II an applicant must have a high school diploma or GED and three (3) years of acceptable Class I operating experience at a Class I or higher system. (2-26-08)

e. To qualify for a Class III treatment or lab analyst III license an applicant must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable Class II operating experience of a Class II or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (2-26-08)

f. To qualify for a Class IV treatment or lab analyst IV license an applicant must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable Class III operating experience at a Class III or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (2-26-08)

g. To qualify for a Class II collection or distribution license an operator must have a high school diploma or GED and three (3) years of acceptable operating experience at a Class I or higher system. (3-24-05)

h. To qualify for a Class III collection or distribution license an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

i. To qualify for a Class IV collection or distribution license an operator must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience at a Class I or higher system, including two (2) years of experience in daily on-site charge, supervision of personnel, or management of a major segment of a system in the same or next lower class. (3-24-05)

j. To qualify for a lagoon license, an operator must have a high school diploma or GED and twelve (12) months of acceptable supervised operating experience at a Lagoon system. (3-24-05)

k. To qualify for a Wastewater Land Application license, an operator must have a high school diploma or GED, a current wastewater treatment license and minimum six (6) months of hands-on operating experience at a wastewater land application system. The wastewater land application operator that is a responsible charge or substitute responsible charge operator must be licensed at the type and class equal to or greater than the classification of the wastewater system. (3-24-05)

l. To qualify for a backflow assembly tester license, an applicant must have a high school diploma or GED, and shall document successful completion of a Board-approved backflow assembly tester training program in compliance with the Cross Connection Control Accepted Procedure and Practice Manual and consisting of theory instruction, practical instruction, and a practical examination in compliance with the USC Test procedures. (3-30-06)

m. To qualify for an original wastewater laboratory analyst license, an applicant must hold a current water treatment, wastewater treatment or lagoon license. (3-24-05)

03. Substituting Education for Experience. Applicants may substitute approved education for operating and responsible charge experience as specified below. (3-24-05)

a. No substitution for operating experience shall be permitted for licensure as a very small system operator or a Class I operator. (3-24-05)

b. For Classes II, III and IV, substitution shall only be allowed for the required experience when fifty percent (50%) of all stated experience (both operating and responsible charge) has been met by actual on-site operating experience. (3-24-05)

c. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. (3-24-05)

d. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however the applicant must still have one (1) year of responsible charge experience. (3-24-05)

e. Education substituted for operating experience may not be also credited toward the education requirement. (3-24-05)

f. One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-24-05)

04. Substituting Experience for Education. Where applicable, approved operating and responsible charge experience may be substituted for education as specified below: (3-24-05)

a. One (1) year of operating experience may be substituted for two (2) years of grade school or one (1) year of high school with no limitation. (3-24-05)

b. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) year post high school education. (3-24-05)

05. Substituting Experience for Experience. Related experience may be substituted for experience up to one-half (½) of the operating experience requirement for Class II, III and IV. Experience that may be substituted includes but is not limited to the following: (3-24-05)

a. Experience as an environmental or operations consultant; (3-24-05)

- b.** Experience in an environmental or engineering branch of federal, state, county, or local government; (3-24-05)
- c.** Experience as a wastewater collection system operator; (3-24-05)
- d.** Experience as a wastewater treatment plant operator; (3-24-05)
- e.** Experience as a water distribution system operator and/or manager; (3-24-05)
- f.** One (1) year of post high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-24-05)
- g.** Experience in waste treatment operation and maintenance. (3-24-05)
- 06. Equivalency Policy.** Substitutions for education or experience requirements needed to meet minimum requirements for license will be evaluated upon the following equivalency policies: (3-24-05)

 - a.** High School - High School diploma = GED or equivalent as approved by the Board = four (4) years. (3-24-05)
 - b.** College - Thirty-five (35) credits = one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields as determined by the Board). (3-24-05)
 - c.** Continuing Education Units (CEU) for operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours = one (1) CEU; forty-five (45) CEUs = one (1) year of college. (3-24-05)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.11.01 - RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-0801 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-605, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The Board of Podiatry operates on fees paid by its licensees. The Board's expenses have been exceeding its revenues. This increase will help address the Board's negative balance.

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

This change will increase the original license fee and annual renewal fee from \$300 to \$400 for the 75 licensees and approximately 5 new licenses per year. The statute caps annual renewal fees at \$400.

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

This fee would have a positive impact on dedicated funds of approximately \$8000 based on 75 licensees and approximately 5 original licenses per year.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the increase is needed to help balance the Board's annual budget.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 5th day of August, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1101-0801

300. FEES (RULE 300).

- 01. Application Fee.** A fee shall accompany all applications. The fee shall be two hundred dollars (\$200). (7-1-97)
- 02. Original License Fee.** The original license fee shall be ~~three~~ four hundred dollars (~~\$300~~) (~~3-13-02~~)()
- 03. Written Exam Fee.** The fee for examination shall be equal to that charged by the national examining entity, together with an additional twenty-five (\$25) dollar administrative fee. (3-13-02)
- 04. Annual Renewal Fee.** Fee for annual renewal of licenses, ~~three~~ four hundred dollars (~~\$300~~) (~~5-3-03~~)()
- 05. Re-Exam Fee.** For candidates re-examining for the written and practical examinations or written examination only, the fee for re-examination will be four hundred dollars (\$400). For candidates re-examining for the practical only, the fee shall be two hundred dollars (\$200). (3-13-02)
- 06. Fee Non-Refundable.** All fees are non-refundable. (3-13-02)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.13.01 - RULES OF THE PHYSICAL THERAPY LICENSURE BOARD
DOCKET NO. 24-1301-0801 (FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2206, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

This change will reduce the license and annual renewal for Physical Therapist from \$65 to \$40 and Physical Therapist Assistant from \$45 to \$35. It will also reduce the reinstatement fee from \$35 to \$25 which is the set amount for the majority of our boards. The Board of Physical Therapy operates on fees paid by its licensees. This change would decrease the initial license fee, renewal fee, and reinstatement fee in an attempt to reduce the Board's cash balance.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This change will reduce the license and annual renewal for Physical Therapists.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: This fee change would reduce the cash balance in dedicated funds for this Board by approximately \$32,000 per year based on 1518 licensees.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the discussion was held in an open meeting of the board and the changes are not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 5th day of August, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1301-0801

200. FEES (RULE 200).

01. License Fee. (3-19-07)

a. The fee for the initial licensure and the annual renewal of a physical therapist shall be ~~sixty-five~~ forty dollars (~~\$65~~40). (3-19-07)()

b. The fee for the initial licensure and the annual renewal of a physical therapist assistant shall be ~~forty~~ thirty-five dollars (~~\$4~~35). (3-19-07)()

02. Examination Fee. The fee for examination shall be that set by the examination entity approved by the Board and shall include an additional administrative fee of forty dollars (\$40). (3-19-07)

03. Reinstatement Fee. A reinstatement fee shall be ~~thirty~~ twenty-five dollars (~~\$3~~25) and satisfactory proof of successful completion of the continuing education requirement. (3-19-07)()

04. Application Fee. The application fee shall be fifty dollars (\$50) and shall accompany all applications. Fees shall not be refundable. (3-19-07)

05. Extraordinary Expenses. In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant reasonable fees to cover all or part of the extraordinary expenses. (3-19-07)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.16.01 - RULES OF THE STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-0801 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-3309, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

This change will increase the annual renewal fee from \$450 to \$600 for the 31 licensees. The statute caps the annual renewal fee at \$600. The Board of Denturitry operates on fees paid by its licensees. The Board's expenses have been exceeding its revenues by about \$5,000 per year. This increase will help balance the Board's annual budget.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This change will increase the annual renewal fee from \$450 to \$600 for the licensees. The fee is authorized pursuant to Section 54-3312, Idaho Code.

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

This fee would have a positive impact on dedicated funds of approximately \$4650 based on 31 licensees.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the increase is needed to help balance the Board's annual budget.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 5th day of August, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1601-0801

250. FEES (RULE 250).

The following fees are established by the board:

(7-1-93)

01. License Application and Exam and Re-Examination Fee.

(4-2-03)

a. License application and examination fee -- three hundred dollars (\$300).

(7-1-93)

b. License application and re-examination fee -- three hundred dollars (\$300).

(4-2-03)

02. Intern Application and Permit Fee. Intern application and permit fee -- three hundred dollars (\$300).

(7-1-93)

03. Initial License Fee. Initial license fee -- three hundred dollars (\$300).

(7-1-93)

04. Annual Renewal Fee. Annual renewal fee -- ~~four hundred fifty~~ six hundred dollars (\$~~450~~600). The annual renewal fee must be accompanied with certification of the applicant having met the required continued education set forth in Section 54-3313, Idaho Code, and Section 350.

~~(3-24-05)~~()

05. Inactive License Fee. The fee for a renewal of an inactive license shall be fifty dollars (\$50).

(3-10-00)

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 37-2715, 37-2726(1), 54-1717, 54-1725(3), 54-1734, and 54-1753, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The proposed rule changes are necessary to:

1. Comply with recent statutory changes to the Wholesale Drug Distribution Act;
2. Provide consistency in the usage of the statutory term "pharmacist in charge";
3. Clarify various requirements and responsibilities regarding pharmacist in charge;
4. Include pharmacy technicians among pharmacy employees whose employment changes are reportable;
5. Substitute the term "licensed" for "registered" in reference to pharmacists; and
6. Reflect the change of name and designation code for one of the organizations offering accredited continuing education programs.

Based on experience acquired in regulating veterinary drug outlets (VDO), the Board desires to amend its rule to clarify the procedures to be followed when VDOs receive oral prescription orders. Because of growing abuse of certain drugs falling within Schedule V controlled substances, the Board desires to require certain data concerning Schedule V substances be reported to the Board. Additionally, the proposed rule changes are necessary to make payment of the annual preceptor site registration fee coincide with license and registration annual renewal; limit fees due April 1 annually to student pharmacist registrations; and change the expiration date for the registration of a student pharmacist extern from July 31 following graduation to July 15 following graduation.

The proposed rules amend disclosure requirements and remove the requirement for a security bond or equivalent security and the requirement for a separate fund for security deposits. Rule changes also substitute the term "pharmacist in charge" for the terms "registered pharmacist manager" and "responsible pharmacist manager;" substitute "licensed" for "registered" when referring to a pharmacist; add pharmacy technicians to the list of employees for whom notification of employment changes must be reported to the Board; clarify which changes are reported by the pharmacy employer and which by the pharmacist in charge; extend the time for the pharmacist in charge to report changes to ten (10) days; clarify the requirement for designation of a pharmacist in charge and clarify the management responsibilities of the pharmacist in charge; and change "American Council of Pharmaceutical Education" to "Accreditation Council for Pharmacy Education (ACPE)" and require that ACPE accredited activities as of January 1, 2008 have an ACPE universal program number with the suffix "P" for pharmacist.

Rule changes require that an oral prescription order received by a VDO be promptly reduced to writing on an unnumbered telephone drug order form available through the Idaho Department of Agriculture and that the original of the completed form be kept at the place of distribution; that following reduction of the oral order to writing, subsequent processing of the order should be identical to the procedure for written orders; require that within seventy-two (72) hours after receiving an oral prescription order, a VDO shall have on file at the place of distribution written confirmation of the oral order from the veterinarian; require the VDO to attach to the written confirmation from the veterinarian the Department of Agriculture form that the VDO completed after receiving the oral order; require written confirmation from the veterinarian be signed by the veterinarian and must be copy one of a numbered three (3)-part prescription form available through the Idaho Department of Agriculture; and provide that the veterinarian may deliver written confirmation to the VDO by mail, fax, electronic transmission, or hand delivery.

Rule changes add Schedule V controlled substances to the list of controlled substances for which prescription data must be reported to the Board. Rule changes remove the preceptor site category in one rule and add the category to other rules; rename a rule category to "Student Pharmacist Registration;" renumber paragraphs; and change the expiration date for student pharmacist intern registrations from July 31 to July 15.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 22nd day of July, 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, ID 83720-0067
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0801

134. AMOUNT OF CONTINUING EDUCATION.

The equivalent of one and one-half (1.5) continuing education units (CEU) shall be required annually of each applicant for renewal of license. One (1) continuing education unit is the equivalent of ten (10) clock hours of participation in programs approved by the Board. (7-1-93)

01. ACPE or CME. At a minimum, eight clock hours (0.8 CEU) will be all or a combination of American Accreditation Council of Pharmaceutical for Pharmacy Education (ACPE) or Continuing Medical Education (CME) approved programs. As of January 1, 2008, all ACPE accredited activities with a release date of January 1, 2008 are required to have a participant designation of P (for pharmacist) as the suffix of the ACPE universal program number. (12-7-94)()

02. Pharmacy Law. One clock hour (0.1 CEU) must be Board approved jurisprudence (pharmacy law) programs. (7-1-93)

03. Non-ACPE Approved. A maximum of six clock hours (0.6 CEU) may be non-ACPE approved programs. (12-7-94)

04. Live Attendance. Three clock hours (0.3 CEU) of the required one and one-half (1.5) continuing education units (CEU) must be obtained by attendance at live continuing education programs. (7-1-97)

05. Carryover of Certain Unused Units. Clock hours of CEU accrued during June of any given licensing period may be carried over into the next licensing period to the extent that a pharmacist's total clock hours of CEU for the given licensing period exceed the total CEUs required under these rules for the given licensing period. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

156. PHARMACIES.

01. Change of Ownership or Location. In case of change of ownership or location of a pharmacy, the original registration becomes void and must be returned with a new pharmacy application. (7-1-93)

02. Annual Report of Pharmacy Employer. Annually, on the date of renewal of registration, the pharmacy employer must notify the Board of the ~~registered pharmacist manager~~ pharmacist-in-charge of the pharmacy, ~~and each registered licensed~~ employee-pharmacist, and each extern/intern training in the pharmacy, on the place provided on the application. ~~However, Any change in pharmacist, pharmacy technician, or extern/intern employment must shall~~ be reported by the pharmacist-in-charge to the Board within five (5) days of the change. (7-1-93)(____)

03. ~~Responsible Pharmacist Manager.~~ ~~A non-registered proprietor of a pharmacy shall place in charge of such pharmacy a pharmacist licensed in the state of Idaho who shall be known as "responsible pharmacist manager" and the non-registered proprietor shall immediately report to the state Board the name of the pharmacist manager.~~ Reporting Change in Pharmacist-in-Charge The pharmacy employer shall report any change in the pharmacist-in-charge of the pharmacy to the Board immediately. (7-1-93)(____)

04. Responsibility of ~~Pharmacist Manager~~ the Pharmacist-in-Charge. ~~Responsible pharmacist managers of pharmacies owned by non-registered proprietors are~~ The pharmacist-in-charge shall be responsible for the management of such stores so far as they are affected by the pharmacy laws. Every part of the establishment coming under the regulation of the pharmacy laws and shall be under the full and complete control of such responsible pharmacist manager every part of the drug outlet and its operations coming under the regulation of the pharmacy laws. (7-1-93)(____)

05. Return of Drugs or Other Items. In the interest of public health, drugs, medicines, sickroom supplies, devices and items of personal hygiene shall not be accepted for return by any pharmacist or pharmacy after such drugs, medicines, sickroom supplies, devices and items of personal hygiene have been taken from the premises where sold, distributed or dispensed, except that medications for in-patients of residential or assisted living facilities, licensed skilled nursing care facilities, and hospitals may be returned to the dispensing pharmacy for credit provided the medications are liquid medications that have been supplied in manufacturer sealed containers and remain unopened, or the medications are in unopened "Unit Dose" packaging. In addition, the conditions set forth in Paragraph 156.05.b. of these rules must be satisfied: (3-20-04)

a. Unit Dose is defined as medications packaged in individually sealed doses with tamper-evident packaging (for example, single unit of use, blister packaging, unused injectable vials and ampules). (3-20-04)

b. The following conditions must be satisfied: (3-20-04)

i. The medications must be returned with tamper-evident packaging intact and with no evidence of tampering. (3-20-04)

ii. In the professional judgment of the pharmacist, the medications meet all federal and state standards for product integrity. (4-5-00)

iii. Policies and procedures are followed for the appropriate storage and handling of medications at the facility and for the transfer, receipt, and security of medications returned to the dispensing pharmacy. (4-5-00)

- iv. A system is in place to track restocking and reuse to allow medications to be recalled if required. (4-5-00)
- v. No controlled substance may be returned except those delivered by Unit Dose on a daily delivery system. (4-5-00)
- vi. If the drug is repackaged by the pharmacy, each repackage container must be labeled in accordance with the following (for purpose of this rule, any change from the original manufacturer's packaging prior to delivery of the medication to the hospital or the facility shall be considered repackaging): (3-20-04)
- (1) Name and strength of the medication; (3-20-04)
 - (2) A suitable expiration date which shall not be later than the expiration date on the original manufacturer's container, or one (1) year from the date the drug is repackaged (If a medication that was repackaged and delivered to the hospital or facility is thereafter returned to the pharmacy and subsequently repackaged again, the expiration date hereunder shall not be later than the expiration date used when the medication was initially repackaged.); (3-20-04)
 - (3) The date the medication was repackaged; (3-20-04)
 - (4) The manufacturer's lot number, expiration date, and identity; and (3-20-04)
 - (5) The identity of the pharmacist responsible for the repackaging. (3-20-04)
- c. If the information required under Subparagraphs 156.05.b.vi.(4) and 156.05.b.vi.(5) of these rules is maintained in the internal records of the pharmacy, those requirements may be omitted from the labeling. The labeling requirements of Subparagraph 156.05.b.vi. of these rules shall apply in addition to the labeling requirements under Section 159 of these rules. (3-20-04)
- d. Medications that have been outside the custody and control of the hospital or facility for any reason, are not eligible for return. In order to be considered as having been in the custody and control of the hospital or facility, the medications must have been delivered by the dispensing pharmacy directly to the hospital or facility or to an agent thereof who is authorized and qualified to accept delivery, and the medications must then be held by the hospital or facility in an area suitable for storing medications and not accessible to any patients. Once a medication has passed from the hospital or facility storage area to the patient or to the patient's designee for any reason, the medication is no longer eligible for return. (3-20-04)
- e. Medications otherwise eligible for return under this rule by virtue of their packaging but that have become ineligible for return for any reason must be marked as follows: (3-20-04)
- i. Such medications that are released for self-administration by the patient, or for administration outside the hospital or facility premises or that are otherwise released to be taken outside the custody and control of the hospital or facility, shall first be clearly marked and identified "Not Eligible For Return" provided however, the foregoing requirement for marking shall not apply to the daily dose of medication released to a patient on the day such dose is to be administered provided the hospital or facility does not allow any such medication to be returned to the same medication storage area as medications eligible for return. (3-20-04)
 - ii. Such medications that are received by the hospital or facility from the patient or the patient's representative, and not directly from the dispensing pharmacy, and that are to be stored in the same storage area as medications which are eligible for return, shall first be clearly marked and identified "Not Eligible For Return." (3-20-04)
 - iii. In the event medications otherwise eligible for return under this rule by virtue of their packaging are discovered to be ineligible for return because they have been outside the custody and control of the hospital or facility, or for any other reason, such medications shall be clearly marked and identified "Not Eligible For Return" immediately upon discovery if they are to remain stored in the same storage area as medications that are eligible for

return. (3-20-04)

f. Each pharmacy and the pharmacist-in-charge shall be responsible for consulting with each hospital or facility from which the pharmacy will accept returns under Section 156 of these rules to ensure that the hospital or facility has an employee who is trained and knowledgeable in the proper storage, use, and administration of medications at the hospital or facility, and to ensure that the hospital or facility has in place and enforces written protocols that will ensure compliance with the conditions necessary to allow returns. The pharmacist-in-charge must review and approve the protocols. The pharmacy must keep a copy of the protocols, as well as the written approval thereof, on file in the pharmacy and produce the same for Board inspectors upon request. (3-20-04)

g. Each pharmacy and the pharmacist-in-charge that will be accepting returns under Section 156 of these rules shall establish written protocols for the pharmacy that will ensure compliance with Section 156 of these rules for all returns. The pharmacist-in-charge must review and approve the protocols. The pharmacy must keep a copy of the protocols, as well as the written approval thereof, on file in the pharmacy and produce the same for Board inspectors upon request. (3-20-04)

06. Damaged Drugs. To sell, offer for sale, barter or give away any drugs damaged by fire or water or by any other means that might affect the potency of the drug is prohibited without first obtaining the written approval of the Board. (7-1-93)

07. Dangerous Drugs. Legend, controlled substances, or other limited sale items must be stored in accordance with United States Pharmacopoeia/National Formulary requirements in the prescription area (where prescriptions are compounded, dispensed or filled) and in a manner as to limit access to licensed pharmacists or authorized personnel of that area only. Failure to comply with this requirement shall be prima facie evidence of unprofessional conduct. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

323. MINIMUM REQUIREMENTS FOR LICENSURE.

01. Information Under Oath. The Board requires the following information under oath from each wholesale drug distributor as part of the initial licensing procedure and as part of any renewal of such license: (4-2-08)

- a.** The name, full business address, and telephone number of the licensee. (7-1-93)
- b.** All trade or business names used by the licensee. (7-1-93)
- c.** Addresses, telephone numbers, and the names of contact persons for the facility used by the licensee for the storage, handling, and distribution of prescription drugs. (4-2-08)
- d.** The type of ownership or operation (such as, partnership, corporation, or sole proprietorship). (7-1-93)
- e.** The name of the owner or operator, or both, of the licensee, including: (7-1-93)
 - i.** If a person, the name of the person. (7-1-93)
 - ii.** If a partnership, the name of each partner, and the name of the partnership. (7-1-93)
 - iii.** If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation, and the name of the parent company, if any. (7-1-93)
 - iv.** If a sole proprietorship, the full name of the sole proprietor and the name of the business entity. (7-1-93)

f. A list of all licenses and permits issued to the applicant/licensee by any other state that authorizes the applicant/licensee to purchase or possess prescription drugs. (4-2-08)

g. Any convictions of the applicant/licensee under any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances. (4-2-08)

h. Any felony convictions of the applicant/licensee under federal, state, or local law. (4-2-08)

i. Any discipline of the applicant/licensee by a regulatory agency in any state for violating any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances. (4-2-08)

j. The name of the licensee's designated representative for the facility, together with the personal information statement and fingerprints required for such individual pursuant to Paragraph 323.01.k. of these rules. (4-2-08)

k. For each individual identified by the licensee as a designated representative pursuant to Paragraph 323.01.g. of these rules, the licensee shall provide the following information: (4-2-08)

i. The individual's places of residence for the past seven (7) years. (4-2-08)

ii. The individual's date and place of birth. (4-2-08)

iii. The individual's occupations, positions of employment, and offices held during the past seven (7) years. (4-2-08)

iv. The principal business and address of any business, corporation, or other organization in which each such office of the individual was held or in which each such occupation or position of employments was carried on. (4-2-08)

v. Whether the individual during the past seven (7) years has been the subject of any proceeding for the revocation of any license or any criminal violation and, if so, the nature of the proceeding and the disposition of the proceeding. (4-2-08)

vi. Whether the individual during the past seven (7) years has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from either violating any federal or state law or regulation the possession, control, or distribution of prescription drugs or criminal violations, together with details concerning any such event. (4-2-08)

vii. A description of any involvement by the individual during the past seven (7) years with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, which manufactured, administered, prescribed, distributed, or stored pharmaceutical products, and any lawsuits in which such businesses were named as a party and in which the individual was also a named party or, regardless of whether the individual was a named party, in which the individual testified in a deposition or testified as a witness at trial. (4-2-08)()

viii. A description of any felony criminal offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere. If the individual has a criminal conviction under appeal and a copy of the notice of appeal of that criminal offense is submitted to the Board, the licensee must submit to the Board within fifteen (15) days after disposition of the appeal a copy of the final written order of disposition. (4-2-08)

ix. A photograph of the individual taken in the previous year. (4-2-08)

02. License Required for Each Facility. If a wholesale distributor distributes prescription drugs from more than one (1) facility, the wholesale distributor shall obtain a license for each facility. (4-2-08)

03. Changes in Information Must Be Submitted to Board. Changes in, or corrections to, any information provided pursuant to Subsection 323.01 of these rules shall be submitted to the Board under oath at the time of license renewal. (4-2-08)

~~**04. Requirement for Bond or Equivalent Security.** Every wholesale distributor required to be licensed in this state shall submit to the Board a bond of not less than one hundred thousand dollars (\$100,000), or other equivalent means of security acceptable to the Board and payable to the Board, such as an irrevocable letter of credit issued by a third party acceptable to the Board or a deposit in a trust account or financial institution acceptable to the Board. Chain pharmacy warehouses that are not engaged in wholesale distribution are exempt from the bond requirement. Such bond or equivalent security shall secure payment of any administrative fines or penalties imposed by the Board and any fees or costs incurred by the Board regarding that licensee when those fines, penalties, fees, or costs are authorized under the laws of this state and the licensee fails to pay thirty (30) days after the fines, penalties, fees, or costs become final. The Board may make a claim against such bond or equivalent security until one (1) year after the licensee's license cease to be valid. A single bond may suffice to cover all facilities operated by the licensee in this state.~~ (4-2-08)

~~**05. Separate Fund for Deposit of Bonds.** The Board shall deposit the bonds required pursuant to Subsection 323.04 of these rules in a fund established by the Board separate from its other accounts.~~ (4-2-08)

064. Accreditation by VAWD. The Board will recognize inspection and accreditation of wholesale distributors by the National Association of Board of Pharmacy's Verified-Accredited Wholesale Distributors (VAWD) program. (4-2-08)

~~**075. License by Reciprocity.** The Board may license by reciprocity a wholesale distributor that is licensed under the laws of another state if:~~ (4-2-08)

~~**a.** The wholesale distributor is accredited by the National Association of Board of Pharmacy's Verified-Accredited Wholesale Distributor's (VAWD) program; or~~ (4-2-08)

~~**b.** The wholesale distributor is licensed under the laws of another state pursuant to standards comparable to those in Idaho and acceptable to the Board and the other state extends reciprocal treatment to distributors of this state.~~ (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

356. VETERINARY DRUG ORDERS.

01. Veterinary Orders for Legend Drugs. All veterinary orders for legend drugs issued to clients to be distributed by a retail veterinary drug outlet will be written on an official numbered three (3) part order form available through the Idaho Department of Agriculture. Such orders will be processed as follows: The practitioner (veterinarian) will retain the second copy in his records, original and one (1) copy will be sent to the retail veterinary drug outlet, the VDT will file the original copy in a readily retrievable manner and will attach the first copy to the order for delivery to the client. (7-1-93)()

02. Distribution of Veterinary Drugs. At no time will legend veterinary drugs be distributed to clients (customers) without the first copy of the practitioner order being attached in some manner. (7-1-93)

03. Retention of Drug Orders for Inspection. Original copies of drug orders will be retained by the establishment and made available for Board inspection for at least two (2) years from the date of processing. (7-1-93)

357. DRUG ORDERS.

01. Processing Veterinary Drug Orders. Veterinary drug orders are to be processed for no more than

the quantity indicated by the practitioner. (7-1-93)

a. No refilling or reprocessing is allowed. (7-1-93)

b. In the event of a split shipment, the VDT must indicate on the reverse of the original order the date, quantity and initials of the person supplying the partial order. Delivery of the remaining quantity must be made within ninety (90) days. (7-1-93)

02. Processing Orders as Written. Veterinary drug orders must be processed exactly as written by the practitioner. (7-1-93)

a. Supplying a different brand or product will be prima facie evidence of rule violation and will subject both the VDT and the establishment to disciplinary proceedings by the Board. (7-1-93)

b. Only original manufacturers' containers bearing the entire label intact may be delivered and no partial containers and no compounding is permitted by VDTs. (7-1-93)

03. Telephone Orders. To ensure proper processing and distribution of drug orders, telephone orders must be received directly by a VDT from a licensed practitioner. If the practitioner is not known to the VDT he must make a reasonable effort to determine that the oral authorization comes from a licensed practitioner, which may include a call back to the individual practitioner for verification. (7-1-93)

04. Oral Orders. ~~Within seventy two (72) hours after receiving an All oral prescription orders the establishment will have on file at the place of distribution a written copy signed by the practitioner are subject to the following-:~~ (7-1-93)()

a. ~~Processing of Upon receiving an oral prescription orders, will be identical to written orders in all other areas and will be the establishment shall promptly reduced the oral order to writing on an unnumbered telephone drug order form available through the Idaho Department of Agriculture telephone drug order blanks. The establishment shall keep on file at the place of distribution the original of the completed form.~~ (7-1-93)()

b. ~~Following reduction of the oral order to writing, subsequent processing will of the order shall be identical to the procedure for written orders.~~ (7-1-93)()

c. ~~Within seventy-two (72) hours after receiving an oral prescription order, the establishment shall have on file at the place of distribution written confirmation of the oral order from the practitioner. Written confirmation must be copy one (1) of an official numbered three (3)-part order form available through the Idaho Department of Agriculture, signed by the practitioner. The written confirmation may be hand delivered, mailed, faxed, attached to an e-mail, or otherwise properly delivered to the Veterinary Drug Outlets (VDO). The VDO shall attach to the written confirmation the form completed by the VDO pursuant to Paragraph 357.04.a. of these rules.~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

404. DUE JUNE 30, ANNUALLY -- TABLE.

01. Pharmacist License. (12-7-94)

a. Active: ninety dollars (\$90). (3-13-02)

b. Inactive: fifty dollars (\$50). (3-13-02)

02. Pharmacy. (6-1-94)

a. Pharmacy License: one hundred dollars (\$100). (12-7-94)

- b. Parenteral Admixture License: one hundred dollars (\$100). (12-7-94)
 - 03. Out-of-State Mail Service.** (7-1-93)
 - a. Pharmacy, initial license: five hundred dollars (\$500). (12-7-94)
 - b. Renewal license: two hundred fifty dollars (\$250). (12-7-94)
 - 04. Clinics and Nursing Homes.** Thirty-five dollars (\$35). (3-13-02)
 - 05. Non-Pharmacy.** (11-1-93)
 - a. "A": sixty dollars (\$60). (3-13-02)
 - b. "B": twenty-five dollars (\$25). (3-13-02)
 - c. "V" (Vending machines): ten dollars (\$10). (3-13-02)
 - d. "DME": fifty dollars (\$50). (7-1-98)
 - 06. Hospitals Without Pharmacy.** Thirty-five dollars (\$35). (3-13-02)
 - 07. Wholesaler (Distributor).** One hundred dollars (\$100). (12-7-94)
 - 08. Controlled Substance for Wholesalers and Distributors.** One hundred dollars (\$100). (3-13-02)
 - 09. Researcher, Analytical Lab.** Forty dollars (\$40). (3-13-02)
 - 10. Retail Veterinary Drug Outlet - Retail or Retail/Wholesale.** One hundred dollars (\$100). (3-13-02)
 - 11. Veterinary Drug Technician.** Thirty-five dollars (\$35). (12-7-94)
 - 12. Pharmacy Technician.** Thirty-five dollars (\$35). (3-13-02)
 - 13. Preceptor Site.** Twenty-five dollars (\$25). ()
- 405. ~~DUE APRIL 1 ANNUALLY~~ STUDENT PHARMACIST REGISTRATION.**
- ~~01. Preceptor Site. Fee twenty five dollars (\$25).~~ (7-1-97)
 - ~~02. Intern. Fee fifty dollars (\$50).~~ (3-13-02)()
 - ~~03. Extern. Fee fifty dollars (\$50) at acceptance to accredited college of pharmacy, to last until July 31 following graduation.~~ (3-13-02)()

(BREAK IN CONTINUITY OF SECTIONS)

469. PRESCRIPTION REPORTING.

All pharmacies which hold a DEA retail pharmacy registration will report by the first of every month or more often as directed by the Board, certain data, as required by the Board, on all Schedule II, III, IV, and V controlled substance prescriptions filled. The data may be reported in the form of diskette, direct computer link, magnetic tape or other method as approved by the Board. (4-2-08)()

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0802

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1705(21) and 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The proposed rule changes are necessary to further define pharmaceutical care in keeping with recent developments in the practice of pharmacy and allow the Board the flexibility to address future changes in the profession regarding pharmaceutical care services.

The proposed rule changes restructure the rule and substitute the term "pharmaceutical care" for "pharmacotherapy." The proposed rule incorporates in its definitions the statutory definition of "pharmaceutical care" and also defines both "drug therapy" and "other pharmaceutical patient care services," specifying that "collaborative pharmacy practice" is a form of "other pharmaceutical patient care services." It takes elements of current rules regarding Collaborative Practice Agreement and Contents of Agreement and combines them, with some changes, into a new rule designated Collaborative Pharmacy Practice and containing a section for "collaborative pharmacy practice agreement" and a section for "contents" of the collaborative practice agreement, along with sections for "initiation of the collaborative practice agreement" and "documentation of pharmacist activities."

The proposed rule provides definitions of "collaborative pharmacy practice," "collaborative pharmacy practice agreement," and "pharmacist's scope of practice pursuant to the collaborative practice agreement." It includes within the definition of "collaborative pharmacy practice agreement" the concept that a collaborative practice agreement is an agreement that provides for "collaborative pharmacy practice for the purpose of conducting drug therapy management services" as such services have been defined in the rules.

The proposed rule contains various definitions related to confidentiality of patient information, including: "health information," "HIPAA," "individually identifiable health information," and "protected health information."

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 22nd day of July, 2008.

Mark D. Johnston, R.Ph.
Executive Director
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0802

165. PHARMACOTHERAPY PHARMACEUTICAL CARE.

~~Collaborative practice between pharmacists and prescribing practitioners is allowed~~ A licensed pharmacist's scope of pharmacy practice may include, but is not limited to, the provision of those acts or services necessary to provide pharmaceutical care as provided defined in this these rules. (7-1-99)(____)

01. Definitions. (7-1-99)

~~ba.~~ ba. Collaborative pharmacy practice. Means ~~a that~~ practice in which the prescribing practitioner makes a diagnosis, maintains ongoing supervision of patient care and refers the patient to a pharmacist, who may initiate and modify drug therapy management within the protocol established by the prescribing practitioner and the pharmacist of pharmacy whereby one (1) or more pharmacists have jointly agreed to work in conjunction with one (1) or more practitioners under protocol whereby the pharmacist may perform certain patient care functions authorized by the practitioner under certain specified conditions or limitations. (7-1-99)(____)

~~ab.~~ ab. Collaborative pharmacy practice Agreement. Means a written and signed agreement between ~~a~~ pharmacist or group of one (1) or more pharmacists and a prescribing practitioner or group of prescribing one (1) or more practitioners that provides for collaborative pharmacy practice for the purpose of conducting drug therapy management of patients services, as defined in these rules. (7-1-99)(____)

c. Drug therapy management. Means ~~the review of a distinct service or group of services that optimize therapeutic outcomes for individual patients.~~ Drug therapy regimen of patients by a pharmacist for the purpose of evaluating and rendering advice to the prescribing practitioner regarding adjustment of the regimen management services are independent of, but can occur in conjunction with, the provision of a drug or a device. Drug therapy management encompasses a broad range of professional activities and responsibilities within the licensed pharmacist's scope of practice. "Drug therapy management" These services may includes, but are not limited to, the following, according to the individual needs of the patient: (7-1-99)(____)

- i. Performing or obtaining necessary assessments of the patient's health status. (____)
- ii. Formulating a drug treatment plan. (____)
- iii. ~~Implementing~~ Selecting, initiating, modifying, and managing or administering drug therapy according to the terms of the agreement; (7-1-99)(____)
- ii: ~~Collecting and reviewing patient drug histories;~~ (7-1-99)
- iii: ~~Obtaining and checking vital signs, including pulse, temperature, blood pressure, and respiration;~~ (7-1-99)
- iv. ~~Ordering and evaluating the results of laboratory tests directly relating to drug therapy, when~~

~~performed in accordance with approved protocols applicable to the practice setting.~~ Monitoring and evaluating the patient's response to therapy, including safety and effectiveness. (7-1-99)()

v. Performing a comprehensive drug review to identify, resolve, and prevent drug-related problems, including adverse drug events. ()

vi. Documenting the care delivered and communicating essential information to the patient's other primary care providers. ()

vii. Providing information, support services and resources designed to enhance patient adherence with his therapeutic regimens. ()

viii. Coordinating and integrating drug therapy management services within the broader health care-management services being provided to the patient. ()

ix. Such other drug therapy management services as may be allowed by law. ()

d. Health information. Means any information, whether oral or recorded in any form or medium, that: ()

i. Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse, and ()

ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual. ()

e. HIPAA. Means the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and any amendments thereof. ()

f. Individually identifiable health information. Means information that is a subset of health information, including demographic information collected from an individual and: ()

i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and ()

ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual that: ()

(1) Identifies the individual; or ()

(2) With respect to which there is a reasonable basis to believe the information can be used to identify the individual. ()

g. Other pharmaceutical patient care services. Means services that may include, but are not limited to, the following: ()

i. Collaborative pharmacy practice. ()

ii. Such other pharmaceutical patient care services as may be allowed by law. ()

h. Pharmaceutical care. Means the provision by a pharmacist of drug therapy management services and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in these rules. ()

ei. Pharmacist's scope of practice pursuant to the collaborative practice agreement. Means those duties and limitations of duties placed upon ~~a~~ one (1) or more pharmacists by the collaborating practitioner or

practitioners, the Board, and applicable law, and includes the limitations implied by the ~~specialty practiced by scope~~ of practice of the collaborating practitioner or practitioners. (7-1-99)()

dj. ~~Prescribing p~~Practitioner. Means, ~~a practitioner in active practice duty~~ for purposes of Section 165, an individual currently licensed, registered, or otherwise authorized ~~and recognized by law~~ in Idaho to prescribe ~~legend~~ and administer drugs ~~and controlled substances~~ in the course of professional practice. (7-1-99)()

k. Protected health information. Means individually identifiable health information that, except as provided in Subparagraph 165.01.k.iv. of this rule, is: ()

i. Transmitted by electronic media. ()

ii. Maintained in any medium described in the definition of electronic media at 45 CFR 162.103 (HIPAA privacy rules). ()

iii. Transmitted or maintained in any other form or medium. ()

iv. Protected health information excludes individually identifiable health information in: ()

(1) Education records covered by the Family Education Right and Privacy Act, as amended (20 U.S.C. Section 1231(g)); ()

(2) Records described at 20 U.S.C. Section 1231 (g)(4)(B)(iv); and ()

(3) Employment records held by a licensee in its role as an employer. ()

02. Collaborative Pharmacy Practice Agreement. ~~A pharmacist planning to engage in collaborative practice shall have on file at his place of practice a written agreement. The agreement may allow the pharmacist, within the pharmacist's scope of practice, to conduct a drug therapy management which must be approved by a prescribing practitioner. The collaboration that the prescribing practitioner agrees to conduct with the pharmacist must be within the scope of the prescribing practitioner's current practice.~~ Collaborative pharmacy practice is subject to the following requirements: (7-1-99)()

a. Collaborative pharmacy practice agreement. A pharmacist planning to engage in collaborative pharmacy practice shall have on file at his place of practice the written collaborative pharmacy practice agreement. The initial existence and subsequent termination of any such agreement and any additional information the Board may require concerning the collaborative pharmacy practice agreement including the agreement itself, shall be made available to the Board for review upon request. The agreement may allow the pharmacist, within the pharmacist's scope of practice pursuant to the collaborative pharmacy practice agreement, to conduct drug therapy management services approved by the practitioner, and as defined by these rules. The collaboration that the practitioner agrees to conduct with the pharmacist must be within the scope of the practitioner's current practice. Patients or caregivers shall be advised of such agreement. ()

b. Contents. The collaborative pharmacy practice agreement shall include: ()

i. Identification of the practitioner and pharmacist who are parties to the agreement. ()

ii. The types of drug therapy management decisions that the pharmacist is allowed to make. ()

iii. A method for the practitioner to monitor compliance with the agreement and clinical outcomes and to intercede where necessary. ()

iv. A provision that allows the practitioner to override a collaborative practice decision made by the pharmacist whenever he deems it necessary or appropriate. ()

v. A provision that allows either party to cancel the agreement by written notification. ()

- vi. An effective date. ()
- vii. Signatures of each collaborating pharmacist and practitioner who are parties to the agreement, as well as dates of signing. Amendments to a collaborative pharmacy practice agreement must be documented, signed, and dated. ()
- c.** Initiation of the collaborative pharmacy practice agreement. The collaborative pharmacy practice agreement must be coupled with a medical order from the practitioner to initiate allowed activities for any particular patient. ()
- d.** Documentation of pharmacist activities. Documentation of allowed activities must be kept as part of the patient's permanent record and must be readily available to other health care professionals providing care to that patient and who are authorized to receive it. Documentation of allowed activities shall be considered protected health information. ()
- ~~**03.** **Contents of Agreement.** The agreement shall include:~~ (7-1-99)
- ~~**a.** A statement identifying the prescribing practitioners and the pharmacists who are a party to the agreement;~~ (7-1-99)
- ~~**b.** A statement of the types of drug therapy management decisions that the pharmacist is allowed to make, which may include:~~ (7-1-99)
- ~~**i.** A detailed statement of the types of diseases, drugs, or drug categories involved, and the type of drug therapy management allowed in each case;~~ (7-1-99)
- ~~**ii.** A detailed statement of the methods, procedures, decision criteria, and plan the pharmacist is to follow when conducting drug therapy management; and~~ (7-1-99)
- ~~**iii.** A statement of the activities the pharmacist is to follow in the course of conducting drug therapy management, including documentation of decisions made and a plan or appropriate mechanism for communication, feedback, and reporting to the prescribing practitioner concerning specific decisions made. In addition to the agreement, documentation shall occur in the prescribing practitioners patient medical chart and may occur on the prescription record, patient profile, a separate log book, or in some other appropriate system;~~ (7-1-99)
- ~~**e.** A method for the prescribing practitioner to monitor compliance with the agreement and clinical outcomes where drug therapy management by the pharmacist has occurred and to intercede where necessary;~~ (7-1-99)
- ~~**d.** A provision that allows the prescribing practitioner to override the agreement whenever he deems it necessary or appropriate; and~~ (7-1-99)
- ~~**e.** The agreement must be coupled with specific orders from the prescribing practitioner to apply such agreement as drug therapy management to any particular patient. The order must constitute a valid drug order or a valid prescription and contain all information necessary to conform to such requirements.~~ (7-1-99)
- 04e.** Review, Renewal, and Revision of Agreement. At a minimum, the written agreement shall be reviewed and renewed, and if necessary, revised every year. (7-1-99)()

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0803

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The proposed changes are necessary to clarify the grounds upon which pharmacy technicians are subject to discipline, the sanctions which may be imposed, and the procedures for reinstatement. The proposed rule changes specify the grounds upon which the Board may refuse to issue or renew, or to suspend, revoke or restrict the registration of a pharmacy technician - the grounds being analogous to the grounds provided in Section 54-1726, Idaho Code, for discipline of licensed pharmacists. The proposed rule changes also specify the penalties the Board may impose upon finding the existence of grounds for discipline of any person holding a pharmacy technician registration.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 22nd day of July, 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, ID 83720-0067
Phone: (208) 334-2356 / Fax: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0803

251. PHARMACY TECHNICIANS.

01. Definition -- Pharmacy Technician. Means an individual, registered with the Board who is employed or otherwise authorized by a pharmacy registered with the Board to perform routine functions, that do not require the use of a licensed pharmacist's professional judgment, in connection with the preparing, compounding, distribution or dispensing of medications at such pharmacy, and who has been adequately trained therefor according to the written standards of such pharmacy. Such written standards shall be available to the Board and its designated personnel for inspection or approval, or both. (5-3-03)

02. Responsibility of Pharmacy and Pharmacist -- Assignment of Functions. (4-5-00)

a. The pharmacy and the pharmacist-in-charge are each responsible for all aspects of the sale at retail and the dispensing of medications, drugs, devices, and other materials at the pharmacy, including the preparing, compounding, distribution or dispensing of medications. No pharmacy or pharmacist may allow assignment to, or permit performance by, any individual, other than a registered pharmacy technician, a registered pharmacist extern/intern, or a licensed pharmacist, of any functions connected to the preparing, compounding, distribution or dispensing of medications at the pharmacy. (5-3-03)

b. The pharmacy or the pharmacist-in-charge may assign to, or allow performance by, a registered pharmacy technician only those functions connected with the preparing, compounding, distribution or dispensing of medications, which meet all of the following criteria: (5-3-03)

i. The function is routine; (4-5-00)

ii. The function is one for which the pharmacy technician is adequately trained and supervised; and (4-5-00)

iii. The function does not require the use of a licensed pharmacist's professional judgment. (4-5-00)

c. Only a registered pharmacist may do any of the following (which, without limiting the scope of the term "professional judgment," is a non-exclusive list of actions requiring a licensed pharmacist's professional judgment): (4-5-00)

i. Receive a new prescription order verbally from a prescriber or other person authorized by law. (4-5-00)

ii. Perform evaluations and interpretations of a prescription and any needed clarifications prior to filling. (4-5-00)

iii. Consult with the prescriber concerning any necessary clarification regarding a patient and his prescription. (4-5-00)

iv. Interpret any clinical data in a patient's medication record system (for example, drug usage, refill frequency, drug interactions, etc.) (7-1-93)

v. Perform professional consultation with any prescriber, nurse or other health care professional. (7-1-93)

vi. Supervise the packaging of drugs and check the completed procedure and product. (7-1-93)

vii. Issue the new prescription to the patient or his agent with consultation. (7-1-93)

viii. Supervise the activities of pharmacy technicians to insure that all such activities are performed completely, safely and without risk or harm to patients. (4-5-00)

d. A violation of the rules on pharmacy technicians by a pharmacist or a pharmacy is unprofessional conduct, and is grounds for revocation or suspension of the pharmacist's license or the pharmacy registration, or both,

issued under Sections 54-1722, 54-1723, 54-1724 or 54-1729, Idaho Code, or other appropriate disciplinary action. (4-5-00)

03. Supervision. Where a pharmacy technician performs one (1) or more functions in connection with the preparing, compounding, distribution or dispensing of medications, the pharmacy technician shall be under the supervision of a licensed pharmacist who, in addition to the pharmacy and the pharmacist-in-charge, shall be responsible for all aspects of the filled prescription including, but not limited to, the following: (4-5-00)

a. Verifying drug selection, strength, dosage form and labeling against the prescription and the contents of stock container. (7-1-93)

b. Verifying selection of the proper prescription container. (7-1-93)

04. Pharmacy Technician Ratio. The ratio of pharmacists to pharmacy technicians shall be not less than one (1) pharmacist for every three (3) pharmacy technicians in any practice setting. (4-6-05)

05. Responsibility of Pharmacy Technicians and Grounds for Discipline. ~~(4-5-00)~~()

a. Pharmacy technicians shall perform all functions properly assigned to them with all necessary care. No pharmacy technician shall accept assignment of, or perform, any functions connected with the preparing, compounding, distribution or dispensing of medications unless such pharmacy technician is employed or otherwise authorized by the assigning pharmacy and such function meets all of the criteria set forth in Paragraph 251.02.b of these rules. (5-3-03)

b. The Board may initiate proceedings against pharmacy technicians who perform such tasks or functions connected with the preparing, compounding, distribution or dispensing of medications: (4-5-00)

i. That are not routine functions; (4-5-00)

ii. That the pharmacy technician is not adequately trained and supervised for; or (4-5-00)

iii. That require the use of a licensed pharmacist's professional judgment. Such persons may be charged by the appropriate authorities with practicing pharmacy without a license in violation of Section 54-1726, Idaho Code. (4-5-00)

c. The Board may ~~initiate proceedings against pharmacy technicians who perform such tasks or functions connected with the preparing, compounding, distribution or dispensing of medications in a negligent or improper manner or otherwise violate the rules on pharmacy technicians. Such violations shall be grounds for revocation or suspension of~~ refuse to issue or renew, or may suspend, revoke, or restrict the pharmacy technician's registration, or other appropriate disciplinary action: of any person upon one (1) or more of the following grounds: ~~(4-5-00)~~()

i. Unprofessional conduct as the term is defined in these rules. ()

ii. Incapacity of a nature that prevents a pharmacy technician from performing the functions of a pharmacy technician with reasonable skill, competence, and safety to the public. ()

iii. Being found guilty, convicted, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state for one (1) or more of the following: ()

(1) Any felony. ()

(2) Any act involving moral turpitude, gross immorality, or which is in relation to the qualifications, functions, or duties of a pharmacy technician. ()

(3) Violations of the pharmacy or drug laws of this state, these rules, or of statutes, rules, or regulations of any other state or of the federal government. ()

iv. Fraud or intentional misrepresentation by a registrant in securing the issuance or renewal of a pharmacy technician registration. ()

v. Being found by the Board to be in violation of any of the provisions of Title 54, Chapter 17, Idaho Code, Title 37, Chapter 27, Idaho Code, or of these rules. ()

06. Identification of Pharmacy Technicians. (7-1-99)

a. All pharmacy technicians working as such in community pharmacies must be identified by a name badge designating that person as a pharmacy technician. The name badge must measure no less than one (1) inch by three (3) inches and must contain the individual's printed name directly above the title of pharmacy technician. The identification badge must be clearly visible at all times. Pharmacy technicians working in an institutional setting may be exempt from the above requirement only if the institution requires a specific badge of identification to be worn by the pharmacy technician. (4-5-00)

b. All pharmacy technicians must identify themselves as a pharmacy technician on any phone calls initiated or received by them while performing pharmacy functions. (7-1-99)

07. Registration of Pharmacy Technician. (4-5-00)

a. Annual Registration. All pharmacy technicians shall register annually with the Board. The Board will develop an appropriate annual registration notice and annual registration form to be mailed to all registered pharmacy technicians prior to June 1 of each year. The notice will state the annual pharmacy technician registration renewal fee. (4-5-00)

b. Initial Registration. Before commencing duties at a pharmacy as a pharmacy technician (including previously registered pharmacy technicians who are changing pharmacies), an individual must register with the Board, pay the registration fee, and have received a certificate of registration from the Board, provided however, an individual who has not previously had his registration as a pharmacy technician revoked or suspended may commence performing duties as a pharmacy technician immediately upon the completion and mailing of the registration form and applicable fee to the Board. The initial registration period shall be from the date of initial registration to the next annual registration date. (5-3-03)

c. Contents of Registration Form. The annual registration form and the initial registration form shall be prepared by the Board, and shall require such information regarding the individual and the employing or authorizing pharmacy as the Board may reasonably require. In addition, registration shall include the statement of the pharmacy owner (or an authorized agent of the pharmacy owner), and of the pharmacist-in-charge that either: (5-3-03)

i. The individual has been adequately trained by the pharmacist-in-charge, or by the pharmacy, to perform those routine functions in connection with the preparing, compounding, distribution or dispensing of medications as are, or will be, assigned to such individual; (4-5-00)

ii. The pharmacist-in-charge or the pharmacy owner has verified that such individual possesses adequate training to perform those routine functions in connection with the preparing, compounding, distribution or dispensing of medications as are, or will be, assigned to such individual; or (4-5-00)

iii. Such individual will be adequately so trained prior to the assignment of any routine functions in connection with the preparing, compounding, distribution or dispensing of medications. (4-5-00)

08. Discipline Procedure, Penalties, and Appeal Reinstatement. Any proceedings by the Board against any pharmacy technician shall comply in all respects with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. Upon finding of the existence of grounds for discipline of any person holding a pharmacy technician registration, or seeking a pharmacy technician registration or a renewal registration under these rules, the Board may impose one (1) or more of the penalties provided for in Section 54-1728, Idaho Code. Petitions for reinstatement shall be subject to the requirements of Section 54-1728(2), Idaho Code. (~~4-5-00~~)()

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0804

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 3, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 37-2715 and 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: The proposed rules are necessary to comply with changes in federal statute. The proposed rule change would strike the language of the existing rule and substitute language requiring that no Schedule II order shall be filled more than ninety (90) days after the date the order was written.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule change is necessary to comply with changes in federal statutes.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 22nd day of July, 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy

3380 Americana Terrace, Ste. 320
PO Box 83720, Boise, ID 83720-0067
Phone: (208) 334-2356 / Fax: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0804

458. ~~TIME FOR FILLING EXPIRATION DATE: SCHEDULE II PRESCRIPTION ORDER.~~

No ~~person shall fill a prescription for a controlled substance listed in Schedule II unless the~~ prescription ~~is tendered to him on or before the thirtieth day following the date of issue~~ order shall be filled more than ninety (90) days after ~~the date the order was written.~~ (5-3-03)(9-3-08)T

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.71.03 - RAILROAD SAFETY AND ACCIDENT REPORTING RULES

DOCKET NO. 31-7103-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 61-515 and 61-515A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Railroad Safety and Accident Reporting Rules currently adopt by reference federal hazardous material safety regulations. In particular, Rule 103.02 adopts the federal hazardous material regulations found in Title 49, Code of Federal Regulations (CFR) dated October 1, 2007. The Commission is proposing to update Rule 103.02 by adoption of the October 1, 2008 edition of the CFR. Major revisions to be included in the 2008 edition of the CFR include:

1. Adding 30 new substances to the list of hazardous substances contained in 49 C.F.R. Part 172 (73 Fed.Reg. 1089 (Jan. 7, 2008));
2. Requiring hazardous material shippers to provide emergency response telephone numbers on the material shipping documents (Part 172);
3. Adding new entries to the hazardous material listing and new rail car placarding requirements; and
4. Developing alternative emergency response actions for various concentrations of ethanol and alcohol in gasoline mixtures (49 C.F.R. Parts 171, 172, 173, 178, and 180). 73 Fed.Reg. 4699 (Jan. 28, 2008).

Finally, the Commission proposes to adopt changes to 49 C.F.R. Parts 172 and 174 that require railroads to compile annual data on certain shipments of explosives, "toxic by inhalation," and radioactive materials. Rail carriers are to use the data to analyze safety and security risks along rail routes and assess alternative routing options. Railroads must also inspect placarded hazardous material rail cars for signs of tampering or suspicious activities. These new safety rules implement recommendations of the 9/11 Commission Act of 2007. 73 Fed.Reg. 20751 (April 16, 2008).

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule adopts updated CFR parts necessary for the safe transportation of hazardous materials by rail.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before September 24, 2008. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 30th day of July, 2008.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7103-0801

103. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 103).

01. Hazardous Material Defined. "Hazardous material" means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. (3-30-01)

02. Adoption of Federal Safety Regulations. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2007~~8~~). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. (~~4-2-08~~)()

03. Recognition of Federal Exemptions. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. (3-30-01)

IDAPA 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2007 and 54-2036(3), Idaho Code.

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

Thursday - September 25th, 2008 - 10:00 a.m.

THE IDAHO REAL ESTATE COMMISSION
633 North Fourth Street
Boise, Idaho 83702

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

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking amends Rule 402 to clarify that the continuing education courses approved for licensing credit must be directly related to the practice of real estate. Specific topics (e.g., specific real estate markets) otherwise included within a broader topic (e.g., "real estate marketing") are being deleted to avoid implication that non-specified markets are excluded.

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

FISCAL IMPACT The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, formal negotiated rulemaking was not conducted because industry representatives were contacted and have participated in this rulemaking.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2008.

DATED this 30th day of July, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0801

402. APPROVED TOPICS FOR CONTINUING EDUCATION.

The primary purpose of continuing education is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers.

()

01. Topics Approved by the Commission. Approved topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, include the following as they pertain to real estate brokerage practice and actual real estate knowledge:

~~(3-20-04)~~()

- a. Real estate ethics; (3-20-04)
- b. Legislative issues that influence real estate practice; (3-20-04)
- c. Real estate law; contract law; agency; real estate licensing law and administrative rules; (3-20-04)
- d. Fair housing; affirmative marketing; Americans with Disabilities Act; (3-20-04)
- e. Real estate financing, including mortgages and other financing techniques; (3-20-04)
- f. Real estate market measurement and evaluation; (3-20-04)
- g. Land use planning and zoning; land development; construction; energy conservation in building; (3-20-04)
- h. Real estate investment; (3-20-04)
- i. Accounting and taxation as applied to real property; (3-20-04)
- j. Real estate appraising; (3-20-04)
- k. Real estate marketing procedures ~~related specifically to actual real estate knowledge;~~ ~~(3-20-04)~~()
- l. Real estate inspections; (3-20-04)
- m. Property management; (3-20-04)
- n. Timeshares, condominiums and cooperatives; (3-20-04)
- o. Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc., ~~and how they affect the practice of real estate;~~ ~~(3-20-04)~~()
- p. Water rights; (3-20-04)
- q. Brokerage office management and supervision; (3-30-07)
- r. Use of ~~calculators or computers as applied to the practice of real estate~~ technology; ~~(3-30-07)~~()
- ~~s. Use of technology as to the practice of real estate;~~ ~~(3-30-07)~~
- ~~t. Licensee safety;~~ (3-30-07)

u.	Commercial real estate topics;	(3-30-07)
v.	Tenants in common;	(3-30-07)
w.	Mobile/manufactured homes;	(3-30-07)
x.	Green market;	(3-30-07)
y.	Senior market;	(3-30-07)
z.	Negotiation skills;	(3-30-07)
aa.	Communication skills;	(3-30-07)
bb.	Resort and recreation;	(3-30-07)
cc.	Farm and ranch;	(3-30-07)
dd.	Timber and mining;	(3-30-07)
ee.	Professionalism; and	(3-30-07)
ff.	Business Success.	(3-30-07)

02. Other Topics. Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education, ~~which is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers.~~

~~(3-20-04)()~~

03. Topics Not Eligible for Continuing Education Credits. The following activities shall not be eligible for approval for compliance with the continuing education requirement: (3-20-04)

- a.** Those which are specifically exam preparation in nature; (3-20-04)
- b.** ~~Those which are held in conjunction with a brokerage firm's sales promotion or sales meetings; or~~
Real estate topics not directly related to real estate brokerage practice. ~~(3-20-04)()~~
- e.** ~~Those which are held by trade organizations for licensee's orientation.~~ (3-20-04)

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0801

NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing on this rulemaking and the public comment period for the submission of written comments has been extended. The action is authorized pursuant to Sections 63-105 and 63-3039, Idaho Code.

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

Tuesday - September 23rd, 2008 - 10:00 a.m.

**THE IDAHO STATE TAX COMMISSION
800 Park Blvd., Plaza IV
First Floor - Conference Room 5
Boise, Idaho**

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 summary of this action is found in Idaho Administrative Bulletin Vol. 08-7, dated July 2, 2008, pages 76-80.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Alan Dornfest at (208) 334-7530.

SUBMISSION OF WRITTEN COMMENTS: The comment period for this rulemaking has been extended. Anyone may submit written comments regarding this rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2008.

Anyone may submit written comments at the public hearing regarding this rulemaking. Any written comments submitted at a public hearing carry the same weight as oral testimony.

DATED this 4th day of August, 2008.

Alan Dornfest
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.09 - WELL CONSTRUCTION STANDARDS RULES

DOCKET NO. 37-0309-0601

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 42-238(12), Idaho Code.

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

Monday - September 22, 2008 - 9:00 a.m.	
IDWR WESTERN REGION OFFICE 2735 Airport Way Boise, Idaho 83705	IDWR EASTERN REGION OFFICE 900 N. Skyline Drive, Suite A Idaho Falls, Idaho 83402
IDWR SOUTHERN REGION OFFICE 1341 Fillmore St. Suite 200 Twin Falls, Idaho 83301	IDWR NORTHERN REGION OFFICE 7600 N. Mineral Drive Coeur d' Alene, Idaho 83815

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

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

There have been no substantive changes in the Well Construction Rules since 1988. Updates to the rules are necessary to protect the ground water resources of Idaho from waste and contamination. The Department has used an extensive two-year long negotiated rulemaking process to facilitate the development of the proposed rules.

The Department hosted 16 full-day negotiated rulemaking meetings between June 2006 and May 2008. The Department also facilitated numerous conference calls for additional discussion and negotiation on specific elements of the proposed rules. A wide variety of stakeholders have participated in the negotiated rulemaking process including representatives of the Idaho Ground Water Association, independent drillers, pump installers, professional geologists, professional engineers, public water system operators, the Idaho Rural Water Association, the Idaho Department of Environmental Quality, private attorneys and District Health Departments.

The proposed changes to the rules consist of text clarification to meet the intent of the Sections 42-235 and 42-238, Idaho Code, and to eliminate contradictions within the current rules which have impeded enforcement efforts. Portions of the rules undergoing the greatest revision include: 1) Better and more comprehensive definitions; 2) clarification on the minimum requirements for all wells; 3) increased minimum standards on steel casing wall thicknesses; 4) specific provisions and allowance for the use of thermoplastic pipe (PVC) as casing and/or liner with out having to obtain a waiver for each instance; 5) requirements for more effective annular seals to prevent contamination, aquifer commingling, and loss of ground water; 6) increasing the minimum surface seal depth from 18 to 38 feet, and 7) improved standards and methodology concerning well disinfection, to protect public health and safety.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2006 Idaho Administrative Bulletin, Vol. 06-6, page 119.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Thomas Neace at 208-287-4935.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 22nd day of July, 2008.

Thomas Neace, P.G. Manager
Ground Water Protection Section
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720, Boise, Idaho 83720
Telephone 208-287-4935 / FAX 208-287-6700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0309-0601

000. LEGAL AUTHORITY (RULE 0).

The Idaho Water Resource Board adopts these administrative rules ~~under~~ with the authority provided by Section 42-238(412), Idaho Code. (7-1-93)()

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are cited as IDAPA 37.03.09, "Well Construction Standards Rules." (7-1-93)()

02. Scope. The Department of Water Resources has statutory responsibility for ~~administering the appropriation and allotment of the ground water resources of the state and to protect the resource against waste and contamination. The 1987 Idaho Legislature enacted amendments to the existing statutes which requires amendment of the rules of well construction standards~~ the statewide administration of the rules governing well construction. These rules establish minimum standards for the construction of all new wells and the modification and decommissioning (abandonment) of existing wells. The intent of the rules is to protect the ground water resources of the state against waste and contamination. These rules are applicable to all water wells, monitoring wells, low temperature geothermal wells, injection wells, cathodic protection wells, closed loop heat exchange wells, and other artificial openings and excavations in the ground which that are more than eighteen (18) feet in vertical depth below land surface as described in these rules pursuant to Section 42-230 Idaho Code. Many holes drilled into the ground Some artificial openings and excavations do not constitute a well. For the purposes of these rules, artificial openings and excavations not defined as wells are described in Subsection 045.03 of these rules. Any time that such an hole artificial opening or excavation is constructed, modified, or decommissioned (abandoned) the intent of these rules shall must be observed. If waste or contamination is attributable to this type of hole artificial opening or excavation, the hole artificial opening or excavation shall must be modified, or decommissioned (abandoned) as determined by the Director. (7-1-93)()

002. WRITTEN INTERPRETATION (RULE 2).

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Idaho Department of Water Resources may draft and implement written statements that pertain to the interpretation of these rules, or to the documentation of compliance with these rules. ()

003. ADMINISTRATIVE APPEALS (RULE 3).

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Section 42-1701A, Idaho Code, and IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources" ()

004. INCORPORATION BY REFERENCE (RULE 4).

No documents have been incorporated by reference into this chapter. ()

005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

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

02. Mailing Address. The mailing address for the state office is: Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098. ()

03. Street Address. The street addresses for the state office of the Department of Water Resources, the regional offices in Idaho Falls, Coeur d'Alene, Twin Falls, and Boise, and the satellite offices in Salmon, and Soda Springs may be obtained by calling the state office at (208) 287-4800, or by visiting the Department's website at <http://www.idwr.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

Records maintained by the Department of Water Resources are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Sections 9-337 through 9-349, Idaho Code. ()

0047. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

Unless the context otherwise requires, the following definitions ~~govern~~ apply to these rules. (7-1-93)()

2701. Approved Seal or Seal Material. ~~The impermeable material, such as cement grout, bentonite grout, or puddling clay, placed in the annular space between the borehole wall and the permanent casing, to prevent the downhole movement of water or the vertical movement and mixing of artesian waters. Seals may not be installed dry unless in granular form and above the water table. Seal material must consist of bentonite chips, pellets, or granules, bentonite grout, neat cement, or neat cement grout as defined by these rules. No other materials may be used unless specifically authorized by the Director~~ (7-1-93)()

01. Abandoned Well. ~~Any well which has been filled or plugged so that it is rendered unproductive and will prevent contamination of the ground water. A properly abandoned well will not produce water nor serve as a channel for movement of water from the well or between water-bearing zones.~~ (7-1-93)

02. Annular Space. The space, measured as one-half (1/2) the difference in diameter between two (2) concentric cylindrical objects, one of which surrounds the other, such as the space between the walls of a drilled hole (~~well borehole~~) and a casing or ~~the space between a temporary surface casing and a permanent~~ two (2) strings of casing. (7-1-93)()

03. Aquifer. Any geologic formation(s) that will yield water to a well in sufficient quantities to make the production of water from ~~this~~ the formation feasible for beneficial use. (7-1-93)()

04. Area of Drilling Concern. An area designated by the Director in which drillers must comply with additional standards to prevent waste or contamination of ground or surface water due to such factors as aquifer pressure, vertical depth of the aquifer, warm or hot ground water, or contaminated ground or surface waters, in accordance with Section 42-238(7), Idaho Code. (7-1-93)()

05. Artesian Water. Any water that is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the elevation where it was first encountered. This term includes water of flowing and non-flowing wells ~~and water under pressure in wells that do not flow.~~ (7-1-93)()

06. Artificial Gravel Filter Pack. ~~The placement of Clean, rounded, smooth, uniform, sand or gravel or other permeable material placed~~ in the annular space around a perforated well casing or well screen. A ~~gravel~~ filter pack is frequently used to prevent the movement of finer material into the well casing and to increase ~~the ability of the well to yield water~~ efficiency. (7-1-93)()

07. Bentonite. A commercially processed and packaged, low permeability, sodium montmorillonite clay certified by the National Sanitation Foundation (NSF) for use in well construction, sealing, plugging, and decommissioning (abandonment). All bentonite products used in the construction or decommissioning (abandoning) of wells must have a permeability rating not greater than 10^{-7} (ten to the minus seven) cm/sec. ()

a. Chips. Bentonite composed of pieces ranging in size from one-quarter (1/4)-inch to one (1) inch on their greatest dimension. ()

b. Granules (also Granular). Bentonite composed of pieces ranging in size from one thirty-seconds (1/32) inch (#20 standard mesh) to seven thirty-seconds (7/32) inch (#3 standard mesh) on their greatest dimension. ()

c. Bentonite Grout. A mixture of bentonite specifically manufactured for use as a well sealing or plugging material and potable water to produce a grout with an active solids content not less than twenty-five percent (25%) by weight e.g., (twenty-five percent (25%) solids content by weight = fifty (50) pounds bentonite per eighteen (18) gallons of water). ()

d. Pellets. Bentonite manufactured for a specific purpose and composed of uniform sized, one-quarter (1/4) inch, three-eighths (3/8) inch, or one-half (1/2) inch pieces on their greatest dimension. ()

078. Board. The Idaho Water Resource Board. (7-1-93)

089. Bore Diameter. The diameter of the hole in the formation made by the drill bit or reamer. (7-1-93)

10. Borehole (also Well Bore). The subsurface hole created during the drilling process. ()

0911. Bottom Hole Temperature of an Existing or Proposed Well. The temperature of the ground water encountered in the bottom of a well or borehole. (7-1-93)()

102. Casing. The permanent conduit installed in a well to provide physical stabilization, prevent caving or collapse of the borehole, maintain the well opening and ~~to prevent waste and contamination of the ground water as required by these standards, or as otherwise used in the construction of a well~~ serve as a solid inner barrier to allow for the installation of an annular seal. ~~# Casing~~ does not include temporary surface casing, well screens, ~~or~~ liners, ~~used in the construction of a well~~ or perforated casing as otherwise defined by these rules. (7-1-93)()

143. Cathodic Protection Well. Any artificial excavation in excess of eighteen (18) feet in vertical depth constructed for the purpose of protecting certain metallic equipment in contact with the ground. Commonly referred to as cathodic protection. (7-1-93)

12. Cement Grout. ~~A mixture of water and cement in the ratio of not more than six (6) gallons of water to a ninety-four (94) pound sack of portland cement which is fluid enough to be pumped through a small diameter pipe. To obtain a better flowing mixture, three (3) to five (5) pounds of bentonite may be added per sack of cement and the water increased to not more than six and one-half (6.5) gallons per sack of cement. Other cement grout or neat cement mixes may be used. These mixes shall be mixed and installed in accordance with the American Petroleum Institute Standards—API Class A through H. As found in API RP10B “Recommended Practice for Testing Oil Well Cements and Cement Additives,” current edition or other approved standards.~~ (7-1-93)

14. Closed Loop Heat Exchange Well. A ground source thermal exchange well constructed for the purpose of installing any underground system through which fluids are circulated but remain isolated from direct contact with the subsurface or ground water. ()

135. Conductor Pipe. The first and largest diameter string of permanent casing to be installed in a low

temperature geothermal resource well. ~~This casing extends from land surface to a depth great enough to keep surface waters from entering and loose earth from falling in the hole prior to setting surface casing.~~ (7-1-93)()

16. Confining Layer. A subsurface zone of low-permeability earth material that naturally acts to restrict or retard the movement of water or contaminants from one zone to another. The term does not include topsoil. ()

147. Consolidated Formations. Naturally-occurring geologic formations that have been lithified (turned to stone) such as sandstone and limestone, or igneous rocks such as basalt and rhyolite, and metamorphic rocks such as gneiss and slate. ~~The term is sometimes used interchangeably with the word "bedrock" and includes rocks such as basalt, rhyolite, sandstone, limestone and shale. Commonly, these formations will stand at the edges of a bore hole without caving.~~ (7-1-93)

18. Contaminant. Any physical, chemical, ion, radionuclide, synthetic organic compound, microorganism, waste, or other substance that does not occur naturally in ground water or that naturally occurs at a lower concentration. ()

159. Contamination. The introduction into the natural ground water of any physical, chemical, biological or radioactive material that may: (7-1-93)

- a. Cause a violation of ~~State Drinking~~ Idaho Ground Water Quality Standards; or (7-1-93)()
- b. Adversely affect the health of the public; or (7-1-93)
- c. Adversely affect a designated ~~and protected~~ or beneficial use of the State's ground water. Contamination includes the introduction of heated ~~water~~ or cooled water into the ~~ground water if the alteration of subsurface that will alter the ground water temperature and renders the local ground water less suitable for beneficial use, or the introduction of any contaminant that may cause a violation of IDAPA 58.01.11, "Ground Water Quality Rule."~~ (7-1-93)()

20. Decommissioned (Abandoned) Well. Any well that has been permanently removed from service and filled or plugged in accordance with these rules so as to meet the intent of these rules. A properly decommissioned well will not:: ()

- a. Produce or accept fluids; ()
- b. Serve as a conduit for the movement of contaminants inside or outside the well casing; or ()
- c. Allow the movement of surface or ground water into unsaturated zones, into another aquifer, or between aquifers. ()

21. Decontamination. The process of cleaning equipment intended for use in a well in order to prevent the introduction of contaminants into the subsurface and contamination of natural ground water. ()

~~1622.~~ **Department.** The Idaho Department of Water Resources. (7-1-93)

23. Dewatering Well. A well constructed for the purpose of improving slope stability, drying up borrow pits, or intercepting seepage that would otherwise enter an excavation. ()

~~1724.~~ **Director.** The Director of the Idaho Department of Water Resources or his duly authorized representatives. (7-1-93)

25. Disinfection. The introduction of chlorine or other agent or process approved by the Director in sufficient concentration and for the time required to inactivate or kill fecal and Coliform bacteria, indicator organisms, and other potentially harmful pathogens. ()

26. Draw Down. The difference in vertical distance between the static water level and the pumping

water level. ()

27. Drive Point (also known as a Sand Point). A conduit pipe or casing through which ground water of any temperature is sought or encountered created by joining a “drive point unit” to a length of pipe and driving the assembly into the ground. ()

28. Exploratory Well. A well drilled for the purpose of discovering or locating new resources in unproven areas. They are used to extract geological, hydrological, or geophysical information about an area. ()

29. Global Positioning System (GPS). A global navigational receiver unit and satellite system used to triangulate a geographic position. ()

30. Hydraulic Conductivity. A measurement of permeability. ()

~~231.~~ **Hydraulic Fracturing.** A process whereby water or other fluid is pumped under high pressure into a well to further fracture ~~and clean-out~~ the reservoir rock or aquifer surrounding the production zone of a well bore thus increasing the flow into the to increase well yield. (7-1-93)()

~~232.~~ **Injection Well.** Any excavation or artificial opening into the ground which meets the following three (3) criteria: (7-1-93)

a. It is a bored, drilled or dug hole, or is a driven mine shaft or driven well point; and (7-1-93)

b. It is deeper than its largest straight-line surface dimension; and (7-1-93)

c. It is used for or intended to be used for subsurface placement of fluids. (7-1-93)

~~233.~~ **Intermediate String or Casing.** The casing installed and sealed below the surface casing within a low temperature geothermal resource well to ~~seal-out brackish~~ isolate undesirable water, ~~eaving or zones, etc.,~~ below the bottom of the surface casing. Such strings may either be lapped into the surface casing or extend to land surface. (7-1-93)()

34. Liner. ()

a. A conduit pipe that can be removed from the borehole or well that is used to serve as access and protective housing for pumping equipment and provide a pathway for the upward flow of water within the well. ()

b. Liner does not include casing required to prevent caving or collapse, or both, of the borehole or serve as a solid inner barrier to allow for the installation of an annular seal. ()

~~235.~~ **Mineralized Water.** Any naturally-occurring ground water that has an unusually high amount of chemical constituents dissolved within the water. Water with ~~above~~ five thousand (5000) ~~ppm~~ mg/L or greater total dissolved solids is considered mineralized. (7-1-93)()

~~236.~~ **Modify.** ~~A change in the construction of an existing well which deepens the well, increases the dimensions of the well or which causes or may cause the well to not meet the minimum well construction standards as determined by the Director.~~ To deepen a well, increase or decrease the diameter of the casing or the well bore, install a liner, place a screen, perforate existing casing or liner, alter the seal between the casing and well bore, or alter the well to not meet well construction standards. (7-1-93)()

237. Monitoring Well. Any well more than eighteen (18) feet in vertical depth constructed to evaluate, observe or determine the quality, quantity, temperature, pressure or other characteristics of the ground water or aquifer. (7-1-93)

38. Neat Cement. A mixture of water and cement in the ratio of not more than six (6) gallons of water to ninety-four (94) pounds of Portland cement (neat cement). Other cement grout mixes may be used if specifically

approved by the Director. ()

39. Neat Cement Grout. Up to five percent (5%) bentonite by dry weight may be added per sack of cement (neat cement grout) and the water increased to not more than six and one-half (6.5) gallons per sack of cement. Other neat cement mixes may be used if specifically approved by the Director. These grouts must be mixed and installed in accordance with the American Petroleum Institute Standards - API Class A through H. As found in API RP10B, "Recommended Practice for Testing Oil Well Cements and Cement Additives," current edition or other approved standards. ()

40. Oxidized Sediments. Sediments, characterized by distinct coloration, typically shades of brown, red, or tan, caused by the alteration of certain minerals in an environment with a relative abundance of oxygen. ()

41. Perforated Well Casing. Well casing that has been modified by the addition of openings created by drilling, torch cutting, saw cutting, mechanical down-hole perforator, or other method. ()

242. Pitless Adaptor or Pitless Unit. An assembly of parts designed for attachment to a well casing which allows buried ~~pump discharge~~ pipe to convey water from the well or pump and allows access to the interior of the well casing for installation or removal of the pump or pump appurtenances, while maintaining a water tight connection through the well casing and preventing contaminants from entering the well. (7-1-93)()

43. Potable Water. Water of adequate quality for human consumption. ()

44. Pressure Grouting (Grouting). The process of pumping and placing an approved grout mixture into the required annular space, by positive displacement from bottom to top using a tremie pipe, Halliburton method, float shoe, or other method approved by the Director. ()

245. Production String Casing. The casing or tubing through which a low temperature geothermal resource is produced. This string extends from the producing zone to land surface. (7-1-93)()

~~**26. Puddling Clay.** A mixture of bentonite, other expansive clays, fine-grained material and water, in a ratio of not less than seven (7) pounds of bentonite or expansive clay per gallon of water. Puddling clay must be composed of not less than fifty (50%) percent expansive clay with the maximum size of the remaining portion not exceeding that of coarse sand. (7-1-93)~~

~~**27. Seal or Seal Material.** The impermeable material, such as cement grout, bentonite grout, or puddling clay, placed in the annular space between the borehole wall and the permanent casing, to prevent the downhole movement of water or the vertical movement and mixing of artesian waters. Seals may not be installed dry unless in granular form and above the water table. (7-1-93)~~

46. Public Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: ()

a. Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and ()

b. Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. ()

c. Such term does not include any "special irrigation district." ()

d. A public water system is either a "community water system" or a "non-community water system." ()

47. Reduced Sediments. Sediments, characterized by distinct coloration, typically shades of blue, black, gray, or green, caused by the alteration of certain minerals in an oxygen poor environment. ()

48. Remediation Well. A well used to inject or withdraw fluids, vapor, or other solutions approved by the Director for the purposes of remediating, enhancing quality, or controlling potential or known contamination. Remediation wells include those used for air sparging, vapor extraction, or injection of chemicals for remediation or in-situ treatment of contaminated sites. ()

49. Sand. Any sediment particle retained on a U.S. standard sieve #200 (Seventy-five hundredths (0.075) mm to two (2) mm). ()

50. Screen (Well Screen). A commercially produced structural tubular retainer with standard sized openings to facilitate production of sand free water. ()

51. Seal or Sealing. The placement of approved seal material in the required annular space between a borehole and casing, between casing strings, or as otherwise required to create a low permeability barrier and prevent movement or exchange of fluids. Seals are required in the construction of new wells, repair of existing wells, and in the decommissioning (abandonment) of wells. Seals are essential to the prevention of waste and contamination of ground water. ()

52. Start Card. An expedited drilling permit process for the construction of cold water, single-family residential wells. ()

53. Static Water Level. The height at which water will rise in a well under non-pumping conditions. ()

2854. Surface Casing. The first string of casing in a low temperature geothermal resource well which is ~~not~~ set and sealed after the conductor pipe to anchor blow out prevention equipment and to case and seal out all existing cold ground water zones. (7-1-93)()

55. Temporary Surface Casing. Steel pipe used to support the borehole within unstable or unconsolidated formations during construction of a well that will be removed following the installation of the permanent well casing and prior to or during placement of an annular seal. ()

56. Thermoplastic/PVC Casing. Plastic piping material meeting the requirements of ASTM F 480 and specifically designed for use as well casing. ()

57. Transmissivity. The capacity of an aquifer to transmit water through its entire saturated thickness. ()

58. Tremie Pipe. A small-diameter pipe used to convey grout, dry bentonite products, or filter pack materials into the annular space, borehole, or well from the bottom to the top of a borehole or well. ()

59. Unconfined Aquifer. An aquifer in which the water table is in contact with and influenced by atmospheric pressure through pore spaces in the overlying formation(s). ()

2960. Unconsolidated Formation. A naturally-occurring earth formation that has not been lithified. Alluvium, soil, sand, gravel, clay, and overburden are some of the terms used to describe this type of formation. (7-1-93)

61. Unstable Unit. Unconsolidated formations, and those portions of consolidated formations, that are not sufficiently hard or durable enough to sustain an open borehole without caving or producing obstructions without the aid of fluid hydraulics or other means of chemical or physical stabilization. ()

62. Unusable Well. Any well that can not be used for its intended purpose or other beneficial use authorized by law. ()

63. Waiver. Approval in writing by the Director of a written request from the well driller and the well owner proposing specific variance from the minimum well construction standards. ()

64. Waste. The loss, transfer, or subsurface exchange of a ground water resource, thermal characteristic, or natural artesian pressure from any aquifer caused by improper construction, misuse, or failure to properly maintain a well. Waste includes: ()

a. The flow of water from an aquifer into an unsaturated subsurface zone; ()

b. The transfer or mixing, or both, of waters from one aquifer to another (aquifer commingling); or ()

c. The release of ground water to the land surface whenever such release does not comply with an authorized beneficial use. ()

65. Water Table. The height at which water will rise in a well; also the upper surface of the zone of saturation in an unconfined aquifer. This level will change over time due to changes in water supply and aquifer impacts. ()

3066. Well. ()

a. An artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is considered to be obtained for the purpose of these rules; or Well also means any injection well more than eighteen (18) feet in vertical depth below land surface and any test well, monitoring well, cathodic protection well, observation well or exploratory well more than eighteen (18) feet in vertical depth below land surface that is constructed to evaluate the ground water resource or to evaluate contamination of the resource

b. Any waste disposal and injection well, as defined in Section 42-3902, Idaho Code. ()

c. Well does not mean: ()

i. A hole drilled for mineral exploration; or ()

ii. Holes drilled for oil and gas exploration (for which a permit has been issued pursuant to subject to the requirements of Section 47-320, Idaho Code); for dam or building foundation dewatering, for foundation geotechnical evaluations, for the installation of standpipes or piezometers installed near dams, buildings or other construction sites for the sole purpose of measuring uplift forces caused by water or ()

iii. Holes drilled for the purpose of collecting soil samples above the water table. (7-1-93)()

67. Well Development. The act of bailing, jetting, pumping, or surging water in a well to remove drilling fluids, fines, and suspended materials from within a completed well and production zone in order to establish the optimal hydraulic connection between the well and the aquifer. ()

3168. Well Driller or Driller. Any person who excavates or opens a well or wells for compensation or otherwise upon any land of the well driller or upon other land. Well driller does not include those persons who construct a well on their own property for their own use without the aid of any power driven mechanical equipment. Any person who operates drilling equipment, or who controls or supervises the construction of a well, and is licensed under Section 42-238, Idaho Code (7-1-93)()

3269. Well Drilling or Drilling. The act of constructing a new well or deepening or modifying or changing the construction of an existing well by any percussion, rotary, boring, digging, jetting or auguring method. (7-1-93)()

3370. Well Owner. The owner of the land on which the well is located unless Any person, firm,

partnership, co-partnership, corporation, association, or other entity, or any combination of these, who owns the property on which the well is or will be located or has secured ownership of the well by means of a deed, covenant, contract, easement, or other documentation acceptable to the director is provided to demonstrate that the well is owned by another enforceable legal instrument for the purpose of benefiting from the well. (7-1-93)()

3471. Well Rig (Drill Rig). Any power driven percussion, rotary, boring, digging, jetting or auguring machine used in the construction of a well. (7-1-93)()

011. -- 024. (RESERVED).

025. CONSTRUCTION OF COLD WATER WELLS (RULE 25).

All persons constructing wells must comply with the requirements of Section 42-238, Idaho Code, and IDAPA 37.03.10, "Well Driller Licensing Rules." The standards specified in Rule 25 apply to all wells with a bottom hole temperature of eighty-five (85) degrees Fahrenheit or less. Wells with a bottom hole temperature greater than eighty-five (85) degrees Fahrenheit, but less than two hundred twelve (212) degrees Fahrenheit, must meet the requirements of Rule 30 in addition to meeting the requirements of Rule 25. These standards also apply to any waste disposal and injection well as defined in Section 42-3902, Idaho Code. ()

01. General. The well driller must construct each well as follows: (7-1-93)()

a. ~~All wells shall be constructed~~ In accordance with these rules and with the conditions of approval of any drilling permit issued pursuant Section 42-235, Idaho Code, and in a manner that will guard against prevent waste and contamination of the ground water resources of the state of Idaho. The adopted standards are minimum standards which must be adhered to in the construction of all new wells, and in the modification or decommissioning (abandonment) of existing wells. The Director shall, when necessary to protect the ground water resource, require that specific wells be constructed in compliance with such additional standards as determined necessary. All wells constructed for domestic water shall, in addition to meeting these standards, meet all of the siting and distance requirements set forth by the appropriate District Health Department and Idaho Department of Environmental Quality rules. The well driller and the property owner are is charged with the responsibility of taking whatever steps might be necessary in any unique situation to guard against preventing waste and or contamination of the ground water resources during the construction, modification or abandonment of a well. It will be necessary in some cases to construct wells with significant additional controls beyond the minimum standards to accomplish these goals. The Director may add conditions of approval to a drilling permit issued pursuant to Rule 45 of these rules to require that a well be constructed, modified, or decommissioned (abandoned) in accordance with additional standards when necessary to protect ground water resources and the public health and safety from existing contamination and waste or contamination during the construction, modification or decommissioning (abandonment) of a well. (7-1-93)()

b. ~~If, in any given unique case, it appears that the ground water resources can be protected against waste and contamination without complying with the minimum well construction standards, a written request for a waiver may be submitted to the Department. If the Director determines that the waiver can be granted, the well can be constructed with some variance from the minimum standards. In order to prevent unnecessary delay the Director may grant a waiver, upon oral request, provided that the oral request is followed by a written request as specified above. In consideration of the geologic and ground water conditions known to exist or anticipated at the well site.~~ (7-1-93)()

c. ~~The standards specified in Rule 25 apply to all wells with a bottom hole temperature of eighty-five (85) Degrees F or less. These standards also apply to injection wells and monitoring wells except as conditioned by any permits issued by the Department. Injection wells shall also comply with the IDAPA 37.03.03, "Rules for the Construction and Use of Injection Wells." Such that it is capable of producing, where obtainable, the quantity of water to support the allowed or approved beneficial use of the well, subject to law;~~ (7-1-93)()

d. To meet the siting and separation distance requirements in the table in this Subsection (025.01.d.) and the siting and separation distance requirements set forth by the governing district health department and the Idaho Department of Environmental Quality rules IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules," and IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," current at the time of well completion.

<u>Separation of Well from:</u>	<u>Minimum Separation Distance (feet)</u>
<u>Existing Public Water Supply well, separate ownership</u>	: 50
<u>Other existing well, separate ownership</u>	: 25
<u>Septic drain field</u>	: 100
<u>Septic tank</u>	: 50
<u>Drainfield of system with more than 2,500 GPD of sewage inflow</u>	: 300*
<u>Sewer line - main line or sub-main, pressurized, from multiple sources</u>	: 100
<u>Sewer line - main line or sub-main, gravity, from multiple sources</u>	: 50
<u>Sewer line - secondary, pressure tested, from a single residence or building</u>	: 25
<u>Effluent pipe</u>	: 50
<u>Property line</u>	: 5
<u>Permanent buildings, other than those to house the well or plumbing apparatus, or both</u>	: 10
<u>Above ground chemical storage tanks</u>	: 20
<u>Permanent (more than six months) or intermittent (more than two months) surface water</u>	: 50
<u>Canals, irrigation ditches or laterals, & other temporary (less than two months) surface water</u>	: 25
<u>*This distance may be less if data from a site investigation demonstrates compliance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules," separation distances.</u>	

()

02. Waivers. In unique cases where the Director concludes that the ground water resources will be protected against waste and contamination and the public health and safety are not compromised, a waiver of specific standards required by these rules may be approved prior to constructing, decommissioning, or modifying a well.

()

a. To request a waiver the well driller and well owner must:

()

i. Jointly submit a detailed plan and written request identifying a specific Rule or Rules proposed to be waived. Additionally, the plan must detail the well construction process that will be employed in lieu of complete Rule compliance:

()

ii. Prior to submittal, the well driller and the well owner must sign the plan and written request acknowledging concurrence with the request; and

()

iii. Submit the plan and request by facsimile, e-mail, or letter.

()

b. The Director will evaluate and respond to the request within ten (10) business days of receiving the request.

()

i. If the waiver is approved, the intent of the rules will be served and all standards not waived will apply. Waivers approved by the Director will not supersede requirements of other regulatory agencies without specific concurrence from that agency. Work activity related to a waiver request will not proceed until a written or verbal approval is granted by the Director.

()

ii. Any verbal approval will be followed by a written approval. ()

03. Records. In order to enable a comprehensive survey of the extent and occurrence of the state's ground water resource, every well driller must maintain records as described in IDAPA 37.03.10 "Well Driller Licensing Rules," pursuant to Section 42-238(11), Idaho Code, and provide the well owner with a copy of the approved well drilling permit and a copy of the well driller's report when submitted to the Director. ()

024. Casing. The well driller must install casing in every well. Steel or thermoplastic casing may be installed in any well with a bottom hole temperature of eighty-five (85) degrees Fahrenheit or less. Thermoplastic pipe must not be installed in a well with a bottom hole temperature greater than eighty-five (85) degrees Fahrenheit. All casing to be installed must be new or in like-new condition, free of defects, and clearly marked by the manufacturer with all specifications required by these rules. For all wells the casing must extend at least twelve (12) inches above land surface and finished grade and to a minimum depth below land surface as required by these rules. Concrete slabs around a well casing will be considered finished grade (Figure 01, Appendix A). The well driller must install casing of sufficient strength to withstand calculated and anticipated subsurface forces and corrosive effects. The well driller must install casings sufficiently plumb and straight to allow the installation or removal of screens, liners, pumps and pump columns without causing adverse effects on the operation of the installed pumping equipment. (7-1-93)()

a. **Steel Casing.** ~~Casing shall be installed in every well. For water wells and injection wells the casing shall extend at least twelve (12) inches above land surface and finished grade and to a minimum depth of eighteen (18) feet below land surface or as required by Rule Subsection 025.03 below. Open well pits with the casing below finished grade are not allowed without written approval by the Director. Upon completion of drilling and prior to removal of well drilling equipment from a water well site, the top of the casing shall be completely covered with a one fourth inch (1/4") thick solid, new or like new steel plate welded in place, a threaded cap, or a watertight sanitary seal cover cap. In every instance where well casing is installed in a well, it shall be of steel in new, or like new condition, and be free of pits and breaks. When steel casing lengths are joined together, they shall must be joined by welded joints or screw-couple joints, which shall All connection must be water tight or by other means as approved by the Director. If steel casing joints are welded, the weld shall must be at least as thick as the wall thickness of the well casing and fully penetrating. The specifications below under "Nominal Wall thickness" will be enforced, allowing a twelve and one half (12.5%) percent manufacturing tolerance. All permanent steel casing required to be installed in a well shall meet the minimum specifications listed in Table 1 shown below: Welding rods or flux core wire of at least equal quality to the casing metal must be used. Casing ends to be joined by welding must be properly prepared, beveled and gapped to allow full penetration of the weld. All stick welded joints must have a minimum of two (2) passes including a "root" pass and have minimal undercut when complete.~~ (7-1-93)()

i. In addition to meeting these standards, all wells that are constructed for public water systems must meet all of the casing wall thickness requirements set forth by the Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

ii. The well driller must install steel casing that meets or exceeds the American Society of Testing and Materials (ASTM) standard A53, Grade B or American Petroleum Institute (API) 5L Grade B, and that meets the following specifications for wall thickness:

Minimum Single-Wall Steel Well Casing Thickness¹ for Selected Diameters (inches)													
Nominal Diameter (in.)³	6²	8	10	12	14	16	18	20	22	24	26	28	30
Depth (ft.)	Nominal Wall Thickness (in.) ¹												
<100	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250
100-200	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250

Minimum Single-Wall Steel Well Casing Thickness¹ for Selected Diameters (inches)													
Nominal Diameter (in.)³	6²	8	10	12	14	16	18	20	22	24	26	28	30
200-300	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250
300-400	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375
400-600	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375	0.375
600-800	0.250	0.250	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375	0.375	0.375	0.375
800-1000	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375
1000-1500	0.280	0.322	0.365	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375
1500-2000	0.280	0.322	0.365	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375

1 Compliance with the minimum nominal wall thicknesses listed is required for any depth or location where casing is used to prevent caving or collapse, or both, of the borehole or serves as a solid inner barrier to allow for the installation of an annular seal.

2 For nominal casing diameters less than six (6) inches, the minimum nominal wall thickness must be equivalent to ASTM Schedule 40.

3 For any other casing diameter not addressed herein, prior approval by the Director is required.

Permanent Steel Casing Minimum Specifications			
Nominal Size (inches)	Outside Diameter (inches)	Nominal Wall Thickness (inches)	Weight Per Ft. (lbs.)
1 1/2	1.900	.145	2.72
2	2.375	.154	3.65
2 1/2	2.875	.203	5.79
3	3.500	.216	7.58
3 1/2	4.000	.226	9.11
4	4.500	.237	10.79
5	5.500	.244	13.70
6 or greater		.250	

(7-1-93)()

b. *Plastic Well Casing may be used for monitoring wells. The use of plastic well casing for water wells shall be considered on a case-by-case basis upon the submittal of a waiver request. Plastic casing may be used as a liner inside the required casing without a waiver or written approval. The specifications of any plastic casing to be used shall meet or exceed ASTM Standard F-480. Thermoplastic Casing. Thermoplastic casing may be used in monitoring wells and cold water wells if drilling of the borehole confirms its suitability for use.* (7-1-93)()

i. *Thermoplastic casing must conform to ASTM F 480 and NSF-WC. The well driller must not use thermoplastic casing under any condition where the manufacturer's resistance to hydraulic collapse pressure (RHCP) or total depth specifications are exceeded. Thermoplastic casing extending above-ground must be protected from physical and ultraviolet light damage by enclosing it within steel casing extending at least twelve (12) inches above*

land surface and finished grade and to a minimum depth of eighteen (18) feet below land surface or five (5) feet below land surface for monitoring wells. ()

ii. Thermoplastic pipe used in wells as casing or liner must have a minimum rating of SDR-21. For nominal diameters of four (4) inches or less, a minimum rating of Schedule 40 is required. If used as casing within unconsolidated or unstable consolidated formations, thermoplastic pipe must be centralized and fully supported throughout the unstable zone(s) with filter pack or seal material as required by these rules. ()

iii. All thermoplastic casing and liner must be installed in accordance with the manufacturer's recommendations and specifications, and as required by these rules. The well driller will not treat thermoplastic pipe in any manner that would adversely affect its structural integrity. The well driller must: ()

(1) Ensure that the weight of the pump assembly, if secured to the thermoplastic pipe, does not exceed the weight limitations per manufacturer's recommendations or cause damage to the pipe resulting in breaks or leaks. ()

(2) Not use Type III (high-early strength) Portland cement-based seal materials in direct contact with thermoplastic pipe unless approved by the Director. ()

(3) Not drive, drop, force, or jack thermoplastic pipe into place. Thermoplastic pipe must be lowered or floated into an oversized, obstruction-free borehole. ()

c. Perforated Well Casing. Perforated well casing may be used in the construction or decommissioning of a well when such application does not violate any standards required by these rules. ()

05. Liner. In addition to well casing, liners may be installed in wells to prevent damage to pumping equipment. Steel or thermoplastic pipe may be installed as liner in a well with a bottom hole temperature of eighty-five (85) degrees Fahrenheit or less. Thermoplastic liner must conform to ASTM F 480 and NSF-WC. Thermoplastic liners must not be used in unconsolidated formations or unstable units. ()

06. Screen. Well screens must be used in constructing a well when necessary to avoid sand production (see sand production, Rule 25, Subsection 025.24). Well screens must be commercially manufactured, be slotted, louvered or wire wrapped, and be installed according the manufacturers specifications. ()

a. Screens may require a filter pack consisting of sand or gravel to further reduce the quantity of sand produced from the well. ()

b. The well driller will not install well screens, perforated casing or filter pack across a confining layer(s) separating aquifers of different pressure, temperature, or quality. ()

037. Sealing of Casing Use of Approved Sealing Materials and Required Annular Space. Well casings must be sealed in the required annular space with approved material to prevent the possible downward movement of contaminated surface waters or other fluids in any annular space around the well casing (Figure 02, Appendix A). Proper sealing is also required to prevent the movement of groundwater either upward or downward from zones of different pressure, temperature or quality within the well or outside the casing. The well driller must notify by phone the Department's appropriate Region Office at least four (4) hours in advance of placing any annular seal to provide Department staff the opportunity to observe seal placement. (7-1-93)()

a. Well casings shall be sealed to prevent the possible downward movement of contaminated surface waters in the annular space around the well casing. The seal shall also prevent the upward movement of artesian waters within the annular space around the well casing that could result in the waste of ground water. The sealing is also to prevent the movement of ground water either upward or downward from zones that have been cased out of the well due to quality or other reasons. The seal material shall consist of cement grout, puddling clay or bentonite grout. The use of well cuttings alone is not an approved seal. All casing to be sealed must be adequately centralized to ensure uniform seal thickness around the well casing. Surface seals must extend to not less than thirty-eight (38) feet below land surface for well depths greater than thirty-eight (38) feet. For well depths less than thirty-eight (38) feet, seals must extend to depths as hereafter required. (7-1-93)()

b. ~~One (1) of the following methods shall be used in placing surface seals:~~ Seals are required at depths greater than thirty-eight (38) feet in artesian wells or to seal through confining layers separating aquifers of differing pressure, temperature, or quality in any well. (7-1-93)()

i. ~~An open free standing hole, two (2) inches greater in diameter than the outside diameter of the permanent casing shall be drilled, or temporary surface casing at least two (2) pipe sizes larger than the permanent casing (six (6) inch permanent casing requires eight (8) inch temporary casing) shall be installed to a minimum depth of eighteen (18) feet below land surface, or to such additional depth as hereafter required (Figure 1.1a in APPENDIX A, located at the end of this chapter). If an open hole is drilled and permanent casing installed, the annular space between the wall and permanent casing shall be filled with puddling clay or bentonite grout during drilling. If the well is drilled open, the annular space must be filled with seal material and maintained full during installation of the permanent casing. If a temporary casing has been installed, upon completion of the drilling, the annular space shall be filled with seal material and kept full while withdrawing the temporary casing.~~ (7-1-93)

ii. ~~A temporary casing a minimum of six (6) inches in diameter greater than the permanent casing and a minimum of five (5) feet in length shall be installed. The temporary casing shall extend not less than one (1) foot above ground surface and not less than three (3) feet below ground surface. The annular space shall be kept full of seal material in a slurry condition at all times during drilling. Upon completion of drilling, the temporary casing shall be removed (Figure 1.1b in APPENDIX A, located at the end of this chapter).~~ (7-1-93)

c. ~~In wells where the above described methods of sealing wells do not apply, special sealing procedures can be approved by the Director upon written request by the well driller. When a well is modified and the existing casing is moved or the original seal is damaged, or a well driller discovers that a seal was not installed or has been damaged, the well driller must repair, replace, or install a seal around the permanent casing that is equal to or better than required when the well was originally constructed.~~ (7-1-93)()

d. ~~Manufactured packers and shale traps may be used as devices to retain approved seal material when installing a required annular seal. Whenever these devices are used to retain seal material, the well driller must comply with the manufacturer's recommendations for installation.~~ ()

e. ~~If a temporary casing has been installed, upon completion of the drilling, the annular space must be filled with approved seal material and kept full while withdrawing the temporary casing. Bentonite chips should be used with caution when the annular space between a temporary casing and permanent casing is filled with water.~~ ()

i. ~~When attempts at removing a temporary casing are unsuccessful, the casing must be sealed in place by a method approved by the department.~~ ()

ii. ~~The well driller must notify the department whenever a temporary casing can not be removed and propose a plan to adequately seal the casing to prevent waste and contamination of the ground water. The plan must detail how the casing will be sealed on the outside to a sufficient depth below land surface in addition to placement of any required formation seals through the interval at which the casing will remain.~~ ()

f. ~~For mixed grout seals the minimum annular space required must provide for a uniform seal thickness not less than one (1) inch on all sides of the casing or a borehole at least two (2) inches larger than the outside diameter of the casing to be sealed (Figure 02, Appendix A). (Note: a seven and seven-eighths (7 7/8) inch diameter (eight (8) inch nominal) borehole around a six and five-eighths (6 5/8) inch casing does not satisfy the minimum annular space requirements).~~ ()

i. ~~When placing grout seals with a removable tremie pipe between casing strings or between a borehole and casing, the required annular space must be at least one (1) inch or equal to the outside diameter of the tremie pipe whichever is greater. Permanent tremie pipes will be considered as a casing string and subject to minimum annular space requirements in addition to the annular space requirements around the well casing (Figure 03, Appendix A).~~ ()

ii. ~~All grout seals must be placed from the bottom up, by using an approved method. Bentonite grout~~

must not be used above the water table unless specifically designed and manufactured for such use and approved by the Director in advance. ()

iii. If cement-based grout (neat cement or neat cement grout) is used to create a seal, the casing string sealed must not be moved or driven after the initial set. Construction must not resume for a minimum of twenty-four (24) hours following seal placement; ()

g. For dry bentonite seals the minimum annular space required must provide for a uniform seal thickness not less than one and five-eighths (1 5/8) inches on all sides of the casing or a borehole at least four (4) inches larger than the "nominal diameter" of the casing to be sealed, e.g., (six and five-eighths (6 5/8) inch casing (six (6) inches nominal) requires a ten (10) inch nominal temporary casing or a nine and seven-eighths (9 7/8) inch minimum borehole). Listed below are additional annular space requirements and limitations for placement of dry bentonite seals; ()

i. All dry bentonite seals must be tagged during placement and consider volumetric calculations to verify placement. ()

ii. Installation of dry bentonite seals must be consistent with the manufacturers' recommendations and specifications for application and placement. ()

iii. Granular bentonite must not be placed through water. ()

iv. If a granular bentonite seal is placed deeper than two hundred (200) feet, the minimum annular space must be increased by at least one (1) inch e.g., (six and five-eighths (6 5/8) inch casing (six (6) inches nominal) requires a twelve (12) inch nominal temporary casing or an eleven and seven eighths (11 7/8) inch minimum borehole). ()

v. Bentonite chips may be placed through water or drilling fluid of appropriate viscosity. Bentonite chip seals placed through more than fifty (50) feet of water or drilling fluid will require the minimum annular space to be increased by at least one (1) inch e.g., (six and five-eighths (6 5/8) inch casing (six (6) inches nominal) requires a twelve (12) inch nominal temporary casing or an eleven and seven eighths (11 7/8) inch minimum borehole). ()

08. Sealing of Wells. Sealing requirements described herein are minimum standards that apply to all wells. The Director may establish alternate minimum sealing requirements in specific areas when it can be determined through detailed studies of the local hydrogeology that a specific alternate minimum will provide protection of the ground water from waste and contamination. ()

da. Consolidated Formations. When a water well is drilled into and acquires water from an aquifer that is overlain by consists of consolidated formations that are above the water table, unperforated casing shall must be installed so that it extends and is sealed to a depth not less than thirty-eight (38) feet (Figure 04, Appendix A). If the well depth is less than thirty-eight (38) feet from land surface, well casing must be installed and sealed five (5) feet into the consolidated formation or to a depth of eighteen (18) feet, whichever is greater. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. (7-1-93)()

eb. Unconsolidated Formations without significant Confining Layers of Clay beds. When a water well is drilled into and acquires water from an unconfined aquifer which that is overlain with unconsolidated formations, such as sand and gravel without significant beds confining layers of clay, an unperforated well casing shall must extend to at least five (5) feet below the water table and be sealed to a depth not less than thirty-eight (38) feet (Figure 05, Appendix A). If the water table well depth is within eighteen (18) less than thirty-eight (38) feet of land surface, unperforated well casing shall must extend to at least five (5) feet below the water table or eighteen (18) feet, whichever is greater, and be sealed to a depth of at least eighteen (18) feet. (7-1-93)()

i. The extensive (for example, one hundred fifty (150) feet thick or more) unconsolidated, non-stratified, sand and gravel of the Rathdrum Prairie are characterized by extremely high transmissivity and hydraulic conductivity. Under these conditions, sealing wells to depths greater than eighteen (18) feet may not be additionally

protective. When a water well is drilled within the boundaries of the Rathdrum Prairie, (shown in Figure 06, Appendix A of these rules), well casing must extend to at least five (5) feet below the water table and be sealed to a depth not less than eighteen (18) feet (Figure 07, Appendix A). ()

fc. ~~Clay beds in unconsolidated formations~~ Unconsolidated Formations with Confining Layers of Clay. When a well is drilled ~~to develop~~ into and acquires water from an aquifer that is overlain by unconsolidated deposits such as sand and gravel, and there are ~~significant interbeds~~ confining layers of clay above the water table, ~~the well casing may~~ must be ~~terminated in a clay bed which will prevent the downward or upward movement of water.~~ Unperforated casing shall extend to and be driven into the clay stratum overlying the water-bearing zone. A minimum of eighteen (18) feet of casing shall be installed below land surface. A single casing may extend from land surface to the water bearing zone, or a smaller diameter casing, perforated liner, or well screen may be installed below the seal depth. installed from the land surface to the confining layer immediately above and in contact with the production zone and sealed to a depth not less than thirty-eight (38) feet (Figure 08, Appendix A). If the well depth is less than thirty-eight (38) feet from land surface, well casing must extend and be sealed into the first confining layer or to a depth of eighteen (18) feet, whichever is greater. (7-1-93)()

04. Artesian Water. When artesian water is encountered in the well, unperforated well casing shall extend into the confining stratum overlying the artesian zone. The casing shall be sealed into the confining stratum to prevent surface and subsurface leakage from the artesian zone. If the well flows at land surface, it shall be equipped with a control valve so that the flow can be completely stopped. If leaks occur around the well casing or adjacent to the well, the well shall be completed with seals, packers, casing or grout that will eliminate the leakage. The well driller shall not move his well drilling rig from the site until this has been accomplished. Some mixing of water may be required to develop an adequate water well; however, the mixing shall be restricted to water zones of similar pressure, temperature and quality. The Director may grant a waiver for good cause. The driller shall take precautions to case and seal out zones which may lead to waste or contamination. (7-1-93)

05. Artificial Gravel Pack Wells. If a well is to be artificially gravel packed, the casing shall be sealed using one (1) of the two (2) following methods: (7-1-93)

a. Access pipes used to inject gravel must be installed in the annular space prior to sealing the space with cement grout or puddling clay. Care should be taken to insure that the seal is water tight around the injection pipe. The pipe must be equipped with a water tight cap or plug. The surface seal must extend a minimum of eighteen (18) feet below land surface. (See Figure 2.2a, APPENDIX B, (located at the end of this chapter). (7-1-93)

b. If a permanent surface or outer casing or liner is installed in the construction of a gravel packed well, a temporary surface casing at least two inches larger than the permanent casing shall be installed to a minimum depth of eighteen (18) feet below land surface. Upon completion of the drilling, the annular space shall be filled with cement grout or puddling clay and the temporary casing withdrawn. The space between the permanent outer casing and the liner or inner casing shall be covered with a water tight seal. This seal shall be of metal welded to both casings in a manner that prevents the movement of surface water into this space and hence into the gravel packed zone. An access pipe for injecting gravel may be permanently installed. The seal must remain water tight and the pipe equipped with a water tight cap or plug. (See Figure 2.2b, APPENDIX B, located at the end of this chapter). (7-1-93)

06. Driven Wells. For all driven wells a well bore having a diameter of at least three (3) inches larger than the outside diameter of the casing shall extend at least three (3) feet below the land surface as outlined in sealing procedure Rule Subsection 025.03. The annular space around the drive pipe shall be filled with seal material and maintained in a slurry condition at all times during driving of the casing. (7-1-93)

07. Dug Wells. All dug wells greater than eighteen (18) feet in depth shall be constructed with a water tight surface curbing extending to a depth of at least eighteen (18) feet. The surface curbing and/or surface casing required shall be of concrete, concrete tile, or steel. Concrete pipe, if used, must meet or exceed ASTM C67-72T Class III specification. Cast in place concrete if used shall, at a minimum, be six (6) inches thick; however, the driller shall determine the wall thickness necessary to withstand external pressures which might cause the casing to collapse. Steel casing must, at a minimum, meet the specifications in Rule Subsection 025.01 and Table 1 of these standards. If precast concrete tile or steel casing is used for the surface casing, the well diameter to the bottom of the surface casing shall be two (2) inches greater than the outside diameter of the tile or steel. The annular space shall be filled with cement grout or puddling clay to a depth of at least eighteen (18) feet below the land surface. In a buried slab

~~type well, the slab shall be at least eighteen (18) feet below the land surface. The slab shall be steel reinforced concrete at least four (4) inches in thickness. The seal between the casing and the slab shall be water tight. The well bore shall be backfilled with puddling clay or cement grout to the land surface. (See Figure 3, APPENDIX A, (located at the end of this chapter.)~~ (7-1-93)

09. Sealing Artesian Wells. ()

a. Unconsolidated Formations. When artesian water is encountered in unconsolidated formations, the production zone or open interval must be limited to zones of like pressure, temperature, and quality. Water encountered in oxidized sediments must not be comingled with water encountered in reduced sediments. Well casing must extend from land surface into the lower most confining layer above the production zone, and must be sealed: ()

i. From land surface to a depth of at least thirty-eight (38) feet; and ()

ii. Through all confining layer(s); and ()

(1) A minimum of five (5) feet of seal material must be placed into or through the lower most confining layer above the production zone (Figure 09, Appendix A); or ()

(2) Five (5) feet into or through the lowermost confining layer above the production zone and continuously to land surface (Figure 09, Appendix A). ()

iii. If the well depth is less than thirty-eight (38) feet, the well must be cased and sealed from land surface to the confining layer in direct contact with the production zone or to a depth of eighteen (18) feet, whichever is greater. ()

b. Consolidated Formations. When artesian water is encountered in a consolidated formation, well casing must be installed and sealed from land surface to a depth of at least thirty-eight (38) feet; and ()

i. If the consolidated formation is overlain by a permeable formation(s) and water will rise above the consolidated formation, well casing must extend and be sealed at least five (5) feet into the confining portion of the consolidated formation (Figure 10, Appendix A). ()

ii. If the well depth is less than thirty-eight (38) feet, the well must be cased and sealed from land surface five (5) feet into the confining consolidated formation or to a depth of eighteen (18) feet, whichever is greater. ()

c. Control Device. Pursuant to Section 42-1603, Idaho Code, if the well flows at land surface, it must be equipped with a control device approved by the Director, so that the flow can be completely stopped. If leaks occur around the well casing or adjacent to the well, the well must be completed with seals, casing or cement grout to eliminate the leakage. ()

i. Flowing artesian wells must be equipped with an approved pressure gage fitting that will allow access for measurement of shut-in pressure of a flowing well. All pressure gage fittings must include control valves such that the pressure gage can be removed without resulting in artesian flow from the well. ()

ii. The well driller must not move his well drilling rig from the site until all requirements have been satisfied. Some mixing of water may be allowed to develop an adequate water well; however, the mixing must be restricted to water zones of similar pressure, temperature and quality. The driller must take precautions to case and seal out zones which may lead to waste or contamination. ()

10. Alternative Methods for Sealing Wells. To accommodate for new technology, and in consideration of the wide variety of drilling equipment used to construct wells, other methods of sealing wells not specifically addressed in these rules may be allowed. The Director may consider specific proposals for alternative methods of sealing on a case by case basis. Director approval or acceptance of such procedures will not constitute a "waiver" of any requirements of these rules. In such cases, the well driller must provide sufficient information for the

Director to determine that the full intent of the sealing requirements will be satisfied if an alternative method is employed. If it is determined that a specific alternate method will provide protection of the ground water from waste and contamination, the Director may issue a statement of acceptance qualifying the use and implementation of such methods. ()

0911. Injection Wells. In addition to meeting the requirements of ~~these standards~~ Rule 25 of these rules, the construction, modification, or decommissioning (abandonment) of all injection wells over eighteen (18) feet in vertical depth ~~shall comply with the requirements of the injection well permit and the injection well rules~~ must also comply with the IDAPA 37.03.03, "Rules for the Construction and Use of Injection Wells," and the injection well permit. Drillers ~~shall~~ must obtain from the Director a certified copy of the permit authorizing construction or modification of an injection well before beginning work. (7-1-93)()

0912. Cathodic Protection Wells. All cathodic protection wells ~~shall~~ must be constructed by a licensed well driller in compliance with these rules. A detailed construction plan must be included with the drilling permit application. (7-1-93)()

103. Monitoring and Remediation Wells. All monitoring wells ~~shall~~ and remediation wells must be constructed and maintained in a manner that will prevent waste or contamination and as otherwise required by these rules. When a monitoring well or a remediation well is no longer useful or needed, the owner or operator of the well ~~shall~~ must decommission (abandon) the well in accordance with Rule 25, Subsection 025.126 of these rules. No person may divert ground water from a monitoring well or a remediation well for any purpose not authorized by the Director. The application for a permit for all monitoring wells and all remediation wells must include a design proposal prepared by a licensed engineer or registered geologist pursuant to Section 42-235, Idaho Code. Blanket permits for monitoring well and remediation well networks may be approved for site-specific monitoring and remediation programs. The designs and specification for monitoring wells and remediation wells must demonstrate that: (7-1-93)()

- a. The ground water resources are protected against waste and contamination; ()
- b. The well(s) will inject or withdraw only fluids, gasses or solutions approved by the Director;()
- c. The well(s) will be constructed so as to prevent aquifer commingling; and ()
- d. The well(s) will be properly decommissioned (abandoned) upon project completion and in accordance with these rules. ()

14. Closed Loop Heat Exchange Wells. The well driller must construct closed loop heat exchange wells consistent with these rules. The well driller is not required to install steel casing in such wells. When constructing a closed loop heat exchange well, the well driller must: ()

- a. Construct each borehole of sufficient size to provide the annular space required by these rules. ()
- b. Seal the annular space of each borehole with approved seal material in accordance with these rules; ()
- c. Install fluid-tight circulating pipe, composed of high-density polyethylene, grade PE3408, minimum cell classifications PE355434C or PE345434C conforming to ASTM Standard D3350, or other Director-approved pipe; ()
- d. Join pipe using thermal fusion techniques according to ASTM Standards D-3261 or D-2683. All personnel creating such system joints must be trained in the appropriate thermal fusion technologies; ()
- e. Use only propylene glycol, or other circulating fluid approved by the Director; ()
- f. Ensure that any other system additive is NSF approved and has prior approval from the Director; ()

- g. Pressure test each loop with potable water prior to grout installation; ()
- h. Pressure test the system with potable water prior to installation of the circulating fluid at one hundred percent (100%) of the designed system operating pressure for a minimum duration of twenty-four (24) hours; and ()
- i. Properly repair or decommission (abandon) all loops failing the test by pressure pumping approved seal material through the entire length of each failed loop. After grouting, loop ends must be fused together or capped. ()

115. Access Port or Pressure Gage. Upon completion of a well and before removal of the well rig from the site, the well ~~shall~~ **must** be equipped with an access port that will allow for measurement of the depth to water or an approved pressure gage fitting that will allow access for measurement of shut-in pressure of an artesian flowing well. All pressure gage fittings ~~shall~~ **must** include control valves such that the pressure gage can be removed. Approved access ports are illustrated in Figure 411, APPENDIX DA, (~~located at the end of this chapter~~) together with approved locations for pressure gage fittings. Air lines are not a satisfactory substitution for an access port. Nonflowing domestic and stock water wells that are to be equipped with a sanitary seal with a built-in access port are exempt from this requirement. (7-1-93)()

126. Decommissioning (Abandoning) of Wells. (7-1-93)

a. The well owner is charged with maintaining and properly decommissioning (abandoning) a well in a manner that will prevent waste ~~and/or~~ contamination, or both, of the ground water. ~~Permanently abandoned wells may have the casing removed or left in place and shall be filled with bentonite grout, cement grout, concrete, or puddling clay or other material as required to stop the upward or downward movement of water. If the well is artesian, cement grout, concrete or a packer approved by the Director shall be placed across the confining stratum overlying the artesian zone so as to prevent subsurface leakage from the artesian zone. The remainder of the well shall be filled with cement grout, concrete, or other approved material. No person is allowed to decommission a well in Idaho without first obtaining a driller's license or receiving a waiver of the license requirement from the Director of the Department of Water Resources. Authorization is required from the Director prior to decommissioning any well. Upon decommissioning, the person who decommissioned the well must submit to the Director a report describing the procedure.~~ (7-1-93)()

b. The Director may require ~~the abandonment~~ decommissioning of a well in compliance with the provisions of ~~Rule Subsection 025.12.a.~~ these rules, if the ~~condition of the~~ well: ()

- i. ~~Does not meet~~ minimum well construction standards; ()
- ii. ~~Does not meet~~ the definition of an unusable well; ()
- iii. Poses a threat to human health and safety; ()
- iv. Is in violation of IDAPA 58.01.11, "Ground Water Quality Rule"; or ()
- v. ~~If there is~~ **Has** no valid water right or other authorization acceptable to the Director for use of the well. ()

c. When required by the Director, decommissioning must be done in accordance with the following: (7-1-93)()

i. Cased wells and boreholes without a continuous seal from the top of the intakes or screen to the surface. The well driller must use one (1) of the following methods as applicable: ()

(1) The Director may require that well casing be perforated every five (5) feet from the bottom of the casing to within five (5) feet of the surface. Perforations made must be adequate to allow the free flow of seal material into any voids outside the well casing. There must be at least four equally spaced perforations per section

circumference. Approved grout must be pressure pumped to fill any voids outside of the casing. A sufficient volume must be used to completely fill the well and annular space; or ()

(2) Fill the borehole with approved seal material as the casing is being removed. ()

ii. Cased wells and boreholes with full-depth seals. If the well is cased and sealed from the top of the screen or production zone to the land surface, the well must be completely filled with approved seal material. ()

iii. Uncased wells must be completely filled with approved seal material. ()

~~15~~iv. *Dry Hole Wells.* Dry hole wells or wells from which the quantity of water to meet a beneficial use cannot be obtained ~~shall~~ must be ~~backfilled~~ decommissioned with cement grout, concrete or other approved seal material in accordance with these rules. (7-1-93)()

137. Completion of a Well. The Director ~~shall~~ will consider that every well is completed when the well drilling equipment has been removed, unless written notice has been given to the Director by the well driller that he intends to return and do additional work on the well within a specified period of time. Upon completion of the well, the well ~~shall~~ must meet all of the required standards. (7-1-93)()

a. Upon completion of drilling and prior to removal of well drilling equipment from a water well site, the top of the casing must be completely covered with: ()

i. A one-fourth inch (1/4") thick solid, new or like-new steel plate with a three-fourths inch (3/4) threaded and plugged access port, welded to and completely covering the casing (Figure 12, Appendix A); or ()

ii. A threaded cap, or a commercially manufactured watertight sanitary well cap (Figure 12, Appendix A); or ()

iii. A commercially manufactured water-tight, snorkel-vented or non-vented well cap on any well susceptible to submergence; or ()

iv. A control device approved by the Director per Section 42-1603, Idaho Code, on any well that flows at land surface (Figure 11, Appendix A). ()

b. Upon the completion of every well, the well driller must permanently affix the stainless steel well tag to the steel surface casing in a manner and location that maintains tag legibility. For closed loop heat exchange wells, the well driller must obtain approval for the well tag placement and method of attachment. The well driller must secure each tag by: ()

i. A full-length weld across the top and down each side of the tag; or ()

ii. Using one (1) stainless steel, closed-end domed rivet near each of the four (4) corners of the tag. ()

iii. Prior to welding or riveting, the tag must be pre-shaped to fit the casing such that both sides to be welded or riveted touch the casing and no gaps exist between the tag and casing. ()

148. Pitless Adapters. ~~The requirement of using seal material in the top eighteen (18) feet of the annular space around the well casing, as set forth in previous sections of these standards, may be altered when a pitless adaptor is installed; the well driller may, at his discretion, stop the well seal at a maximum of six (6) feet (seal from six (6) feet to eighteen (18) feet) below land surface.~~ When a pitless adaptor is used (Figure 12, Appendix A), the adaptor should be of the type approved by the National Sanitation Foundation (NSF) testing laboratory or the approval code adopted by the Pitless Adaptor Division of the Water Systems Council. The pitless adaptor, including the cap or cover, casing extension, and other attachments, must be so designed and constructed to be water tight and to prevent contamination of the potable water supply from external sources. If a permanent surface or outer casing is installed and is cut off or breached to install the pitless adapter on an inner well casing or liner, the space between the

permanent outer casing and the liner or inner casing must be sealed. The well owner or person installing the pitless adaptor shall must then seal the excavation surrounding the pitless adaptor using bentonite grout or other suitable an approved seal material. (7-1-93)(____)

~~15.~~ **Dry Hole Wells.** ~~Dry hole wells shall be backfilled with cement grout, concrete or other approved material.~~ (7-1-93)

19. Pump Installation. No person is allowed to install a pump into any well that would cause a violation of Rule 25, of these rules or other applicable rules or state law. (____)

~~1620.~~ **Explosives.** Explosives used in well construction shall must never be detonated inside the required well casing. Approved explosive casing perforators may be exempted by the Director. (7-1-93)

~~1721.~~ **Hydraulic Fracturing.** Hydraulic fracturing shall must be performed only by well drillers licensed in Idaho. The pressure shall must be transmitted through a drill string and shall must not be transmitted to the well casing. The driller shall must provide a report to the Director of the fracturing work which shall must include well location, fracturing depth, fracturing pressures and other data as requested by the ~~Department~~ Director. (7-1-93)(____)

~~1822.~~ **Drilling Fluids or Drilling Additives.** ~~Drilling fluids or drilling additives shall not contain drilling fluids or drilling additives a concentration of any substance in excess of drinking water standards as set forth in the current IDAPA 58.01.08, "Rules for Public Drinking Water Systems." The driller shall be responsible for using drilling fluids and additives in accordance with the manufacturer's specifications. Specific products may be approved by the Director on a case-by-case basis.~~ The well driller must use only potable water and drilling fluids or drilling additives that are manufactured for use in water wells, are National Sanitary Foundation (NSF), American Petroleum Institute (API), or ASTM/ANSI approved; and do not contain a concentration of any substance in excess of Primary Drinking Water Standards, as set forth in IDAPA 58.01.08, "Rules for Public Drinking Water Systems," according to manufacturer's specifications. The well driller may seek approval from the Director to use specific, non-certified products on a case-by-case basis. In addition, the well driller must ensure the containment of all drilling fluids and materials used or produced to the immediate drilling site, and will not dispose of such fluids or materials into any streams, canals, boreholes, wells, or other subsurface pathways. (7-1-93)(____)

~~1923.~~ **Disinfection and Decontamination.** ~~No casing, pipe, pumps, artificial gravel packs, drilling tools or other items shall be placed in a well which will cause contamination. Disinfection with a five hundred (500) parts per million chlorine solution (one (1) gallon of chlorine bleach per one hundred (100) gallons clean water) is recommended for all items placed in the well.~~ Upon completion of a well, the driller is responsible for adding the appropriate amount of disinfecting chemical compound and distributing it throughout the well to achieve a uniform concentration for "in place" disinfection of the well. Chlorine compounds used in accordance with the table listed below will satisfy this requirement. Other methods may be used if approved by the Director in advance. (7-1-93)(____)

Amount of Chlorine Needed Per 100 Feet of Water in Well			
<u>Casing Diameter (in.)</u>	<u>Gallons of water in casing per 100 ft. of water depth</u>	<u>Amount of 5.25% Sodium Hypochlorite (Unscented Laundry Bleach)</u>	<u>Amount of 65% Calcium Hypochlorite (Chlorine Granules)</u>
<u>6</u>	<u>147</u>	<u>2 ¼ cups</u>	<u>3 tbsp</u>
<u>8</u>	<u>261</u>	<u>4 cups</u>	<u>5 tbsp</u>
<u>10</u>	<u>408</u>	<u>6 ¼ cups</u>	<u>½ cup</u>
<u>12</u>	<u>588</u>	<u>9 cups</u>	<u>¾ cup</u>
<u>16</u>	<u>1044</u>	<u>1 gal</u>	<u>1 ¼ cup</u>

Note: 1 gal = 4 qt = 8 pt = 16 cups; 1 cup = 16 tbsp

Amount of Chlorine Needed Per 100 Feet of Water in Well
Chlorine granules or tablets must be dissolved and placed into the well as a solution.
If another concentration of hypochlorite solution is used, the following equation should be used for calculating amounts. (Volume of water) X (0.08) = cups of hypochlorite % Hypochlorite (e.g. 50% = 50)

()

24. Sand Production. The maximum sand content produced from a well after initial well development must not exceed fifteen (15) ppm. For the purpose of this rule, sand is considered to be as any sediment particle retained on a U.S. standard sieve #200 (seventy-five hundredths (0.075) mm to two (2) mm). ()

a. When necessary to mitigate sand production the well driller must: ()

i. Construct each well with properly sized casing, screen(s) or perforated intake(s); and ()

ii. Install properly sized filter pack(s); or ()

iii. Install pre-packed well screens; or ()

iv. Employ other methods approved by the Director. ()

b. The Director may grant a waiver exempting a well producing water that exceeds the maximum sand content only if the well driller has met the requirements of Rule 25, Subsection 025.24.a. ()

c. Sand production in public water system wells. Wells used in connection with a public water system have more stringent requirements. See IDAPA 58.01.08, "Idaho Rules for Public Water Systems." ()

25. Well Development and Testing. For each well the well driller must measure and record the static (non-pumping) water level and the pumping water level, and the production rate. The production rate will be determined by a pump, bailer, air-lift, or other industry approved test of sufficient duration to establish production from the well. For wells with no returns the driller must report no returns and the static water level. This information must be documented on the well driller's report. ()

026. -- 029. (RESERVED).

030. CONSTRUCTION OF LOW TEMPERATURE GEOTHERMAL RESOURCE WELLS AND BONDING (RULE 30).

01. General. Drillers constructing low temperature geothermal resource wells (bottom hole temperature more than eighty-five (85) ~~D~~degrees Fahrenheit and less than two hundred twelve (12) ~~D~~degrees Fahrenheit) shall ~~must~~ be qualified under the Well Driller Licensing Rules. All low temperature geothermal resource wells shall ~~must~~ be constructed in such a manner that the resource will be protected from waste due to lost artesian pressure and temperature. The owner or well driller is required to provide bottom hole temperature data, but the Director may make the final determination of bottom hole temperature, based upon information available to him. (7-1-93)()

a. All standards and guidelines for construction and decommissioning (abandonment) of cold water wells shall apply to low temperature geothermal resource wells except as modified by Rule 30, Subsections 030.03, 030.04, and 030.06. (7-1-93)()

b. A drilling prospectus shall ~~must~~ be submitted to and approved by the Director prior to the construction, modification, deepening or decommissioning (abandonment) of any low temperature geothermal

resource well. The well owner and the well driller are responsible for the prospectus and subsequent well construction. (7-1-93)(_____)

02. Well Owner Bonding. The owner of any low temperature geothermal resource well *shall must* file a surety bond or cash bond as required by Section 42-233, Idaho Code, with the Director in an amount not less than five thousand dollars (\$5,000) nor more than twenty thousand dollars (\$20,000) payable to the Director prior to constructing, modifying or deepening the well after July 1, 1987. The bond amount *shall will* be determined by the Director within the following guidelines. The bond *shall will* be kept in force for one (1) year following completion of the well or until released in writing by the Director, whichever occurs first. (7-1-93)(_____)

a. Any well less than three-hundred (300) feet deep with a bottom hole temperature of less than one hundred twenty (120) ~~D~~degrees Fahrenheit and a shut-in pressure of less than ten (10) pounds per square inch gage (psig) at land surface *shall must* maintain a bond of five thousand dollars (\$5,000). (7-1-93)(_____)

b. The owner of any well three hundred (300) feet to one thousand (1,000) feet deep with a bottom hole temperature of less than one hundred fifty (150) ~~D~~degrees Fahrenheit and a shut-in pressure of less than fifty (50) psig at land surface *shall must* maintain a bond of ten thousand dollars (\$10,000). (7-1-93)(_____)

c. The owner of any low temperature geothermal resource well not covered by Rule 30, Subsections 030.02.a. and 030.02.b. *shall must* maintain a bond of twenty thousand dollars (\$20,000). (7-1-93)(_____)

d. The Director may decrease or increase the bonds required if it is shown to his satisfaction that well construction or other conditions merit an increase or decrease. (7-1-93)

e. The bond requirements of Section 42-233, Idaho Code, are applicable to wells authorized by water right permits or licenses having a priority date earlier than July 1, 1987, if the well authorized by the permit or license was not constructed prior to July 1, 1987 or if an existing well constructed within the terms of the permit or license is modified, deepened or enlarged on or after July 1, 1987. (7-1-93)

03. Casing. Low temperature geothermal resource wells *shall must* be protected from cooling by preventing intermingling with cold water aquifers and from loss of pressure by preventing flow into zones of lower pressure. (7-1-93)(_____)

a. Casing which meets or exceeds the minimum specifications for permanent steel casing of Rule 25, Subsection 0325.024 *shall must* be installed in every well. The Director may require a more rigid standard for collapse and burst strength as depths or pressures may dictate. Every low temperature geothermal resource well which flows at land surface *shall must* have a minimum of forty (40) feet of conductor pipe set and cemented its entire length. (7-1-93)(_____)

b. Casing *shall must* be installed from twelve (12) inches above land surface into the overlying confining strata of the thermal aquifer. The casing schedule may consist of several different casing strings (i.e. conductor pipe, surface casing, intermediate casing, production pipe casing) which may all extend to land surface or may be overlapped and sealed or packed to prevent fluid migration out of the casing at any depth (Figure 13, Appendix A). (7-1-93)(_____)

i. Low temperature geothermal resource wells less than one thousand (1,000) feet deep and which encounter a shut-in pressure of less than fifty (50) psig at land surface *shall must* have two (2) strings of casing set and cemented to land surface. Conductor pipe *shall must* be a minimum of forty (40) feet in length or ten percent (10%) of the total depth of the well whichever is greater. Surface casing *shall must* extend into the confining stratum overlying the aquifer. (7-1-93)(_____)

ii. Low temperature geothermal resource wells one thousand (1,000) feet or more in depth or which will likely encounter a shut-in pressure of fifty (50) psig or more at land surface require prior approval of the drilling plan by the Director and *shall must* have three strings of casing cemented their total length to land surface. Conductor pipe *shall must* be a minimum length of forty (40) feet. Surface casing *shall must* be a minimum of two hundred (200) feet in length or ten percent (10%) of the total depth of the well, whichever is greater. Intermediate casing *shall must* extend into the confining stratum overlying the aquifer. (7-1-93)(_____)

c. Subsection 030.13.b. may be waived if it can be demonstrated to the Director through the lithology, electrical logs, geophysical logs, injectivity tests or other data that formations encountered below the last casing string set, will neither accept nor yield fluids at anticipated pressure to the borehole. (7-1-93)

d. A nominal borehole size of two (2) inches in diameter larger than the Outside Diameter (O.D.) of the casing or casing coupler (whichever is larger) *shall must* be drilled. All casing designations *shall must* be by O.D. and wall thickness and *shall must* be shown to meet a given specification of the American Petroleum Institute, the American Society for Testing and Materials, the American Water Works Association or the American National Standards Institute. The last string of casing set during drilling operations *shall must*, at the Director's option, be flanged and capable of mounting a valve or blow out prevention equipment to control flows at the surface before drilling resumes. (7-1-93)(____)

04. Sealing of Casing. All casing *shall must* be sealed its entire length with cement or a cement grout mixture unless waived by the Director. The seal material *shall must* be placed from the bottom of the casing to land surface either through the casing or tubing or by use of a tremie pipe. The cement or cement grout *shall must* be undisturbed for a minimum of twenty-four (24) hours or as needed to allow adequate curing. (7-1-93)(____)

a. A caliper log may be run for determining the volume of cement to be placed with an additional twenty-five (25%) percent on site ready for mixing. If a caliper log is not run, an additional one hundred (100%) percent of the calculated volume of cement *shall must* be on site ready for placement. (7-1-93)(____)

b. If there is no return of cement or cement grout at the surface after circulating all of the cement mixture on site, the ~~Department~~ Director will determine whether remedial work should be done to insure no migration of fluids around the well bore. (7-1-93)(____)

c. The use of additives such as bentonite, accelerators, retarders, and lost circulation material *shall must* follow manufacturer's specifications. (7-1-93)(____)

05. Blow Out Prevention Equipment. The Director may require the installation of gate valves or annular blow out prevention equipment to prevent the uncontrolled blow out of drilling mud and geothermal fluid. (7-1-93)

06. Repair of Wells. The well driller *shall must* submit a drilling prospectus to the Director for review and approval prior to the repair or modification of a low temperature geothermal resource well. (7-1-93)(____)

07. Decommissioning (Abandoning) of Wells. Proper decommissioning (abandonment) of any low temperature geothermal resource well requires the following: (7-1-93)(____)

a. All cement plugs *shall must* be pumped into the hole through drill pipe or tubing. (See Figure 5, APPENDIX E, (located at the end of this chapter). (7-1-93)(____)

b. All open annuli *shall must* be completely filled with cement. (7-1-93)(____)

c. A cement plug at least one hundred (100) feet in vertical depth *shall must* be placed straddling (fifty (50) feet above and fifty (50) feet below) the zone where the casing or well bore meets the upper boundary of each ground water aquifer. (7-1-93)(____)

d. A minimum of one hundred (100) feet of cement *shall must* be placed straddling each drive shoe or guide shoe on all casing including the bottom of the conductor pipe. (7-1-93)(____)

e. A surface plug of either cement grout or concrete *shall must* be placed from at least fifty (50) feet below the top of the casing to the top of the casing. (7-1-93)(____)

f. A cement plug *shall must* extend at least fifty (50) feet above and fifty (50) feet below the top of any liner installed in the well. The Director may waive this rule upon a showing of good cause. (7-1-93)(____)

g. Other decommissioning (abandonment) procedures may be approved by the Director if the owner or operator can demonstrate that the low temperature geothermal resource, ground waters, and other natural resources will be protected. (7-1-93)()

h. Approval for decommissioning (abandonment) of any low temperature geothermal well must be in writing by the Director prior to the beginning of any decommissioning (abandonment) procedures. (7-1-93)()

031. -- 034. (RESERVED).

035. HEALTH STANDARDS (RULE 35).

01. **Public ~~Supply~~ Water System Wells.** In addition to meeting these standards, all wells that are constructed for public supply of domestic water ~~shall~~ must meet all of the requirements set forth by the Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (7-1-93)()

02. **Special Standards for Construction of Wells When Mineralized or Contaminated Water Is Encountered.** Any time in the construction of a well that mineralized or contaminated water is encountered, the well driller ~~shall~~ must take the appropriate steps necessary to prevent the poor quality waters from entering the well or moving up or down the annular space around the well casing. The method employed to case and seal out this water ~~shall~~ will be determined by the well driller, provided ~~the~~ all other minimum standards are met. The well driller will take special precautions ~~must be taken~~ in the case of gravel filter-packed wells to prevent water of inferior quality from moving vertically in the gravel filter packed portions of the well. All actions taken will be clearly documented on the well driller's report (7-1-93)()

03. **Distances From Contaminant Sources.** All water wells constructed for domestic use ~~shall~~ must comply with minimum distances from septic tanks, drain fields, drainfield replacement area and other siting requirements of the Idaho Department of Environmental Quality and the appropriate District Health Department. (7-1-93)()

04. **~~Well Maintenance~~ Owners Responsibilities for Well Use and Maintenance.** After a well is completed ~~the~~ the well owner shall be is responsible for water quality testing, properly maintaining the well, and reporting problems with a well to the Director. All wells shall must be capped, covered and sealed such that debris cannot enter the well, persons or animals cannot fall into the well, and water cannot enter the well around the outside of the casing. Pursuant to Section 42-1603, Idaho Code, the owner of any artesian well that will flow at land surface is required to apply to the Director for approval of a flow control device. (7-1-93)()

05. **Use.** The well owner must not operate any well in a manner that causes waste or contamination of the ground water resource. Failure to operate, maintain, knowingly allow the construction of any well in a manner that violates these rules, or failure to repair or properly decommission (abandon) any well as herein required will subject the well owner to civil penalties as provided by statute. ()

06. **Maintenance.** The well owner must: ()

a. Not allow modification to wells under their control without first obtaining an approved Idaho Department of Water Resources (IDWR) permit, pursuant to Section 42-235, Idaho Code; ()

b. Maintain the minimum casing height of twelve (12) inches above land surface and finished grade; ()

c. Maintain the appropriate well cap, and control device if required, according to these Rules; and ()

d. Not install or allow the installation of any well pump that would cause a violation of the sand production requirements in accordance with these Rules or allow the well to pump in excess of that allowed by a valid water right or domestic exemption. ()

e. Maintain the well to prevent waste or contamination of ground waters through leaky casings, pipes, fittings, valves, pumps, seals or through leakage around the outside of the casings, whether the leakage is above or below the land surface. Any person owning or controlling a non-compliant well must have the well repaired by a licensed well driller under a permit issued by the Director in accordance with these Rules. ()

07. New Construction. The well owner must not construct or allow construction of any permanent building, except for buildings to house a well or plumbing apparatus, or both, closer than ten (10) feet from an existing well. ()

08. Maintain All Other Separation Distances. The well owner must not construct or install, or allow the construction or installation of any object listed in a location closer than that allowed by the table of Rule 25, Subsection 025.01.e. ()

09. Unusable Wells. The well owner must have any unusable well repaired or decommissioned (abandoned) by a licensed well driller under a permit issued by the Director in accordance with these Rules. ()

10. Wells Posing a Threat to Human Health and Safety or Causing Contamination of the Ground Water Resource. The well owner must have any well shown to pose a threat to human health and safety or cause contamination of the ground water resource immediately repaired or decommissioned (abandoned) by a licensed well driller under a permit issued by the Director in accordance with these Rules. ()

036. -- 039. (RESERVED).

040. AREAS OF DRILLING CONCERN (RULE 40).

01. General. (7-1-93)

a. The Director may designate an “area of drilling concern” to protect public health, or to prevent waste and contamination of ground or surface water, or both, because of factors such as aquifer pressure, vertical depth to the aquifer, warm or hot ground water, or contaminated ground or surface waters. (7-1-93)

b. The designation of an area of drilling concern does not supersede or preclude designation of part or all of an area as a Critical Ground Water Area (Section 42-233a, Idaho Code), Ground Water Management Area (Section 42-233b, Idaho Code), or Geothermal Resource Area (Sections 42-4002 and 42-4003, Idaho Code). (7-1-93)

c. The designation of an area of drilling concern can include certain aquifers or portions thereof while excluding others. The area of drilling concern may include low temperature geothermal resources while not including the shallower cold ground water systems. (7-1-93)

02. Bond Requirement. (7-1-93)

a. The minimum bond to be filed by the well driller with the Director for the construction or modification of any well in an area of drilling concern ~~shall be~~ is ten thousand dollars (\$10,000) unless it can be shown to the satisfaction of the Director that a smaller bond is sufficient. (7-1-93)()

b. The Director may determine on a case-by-case basis if a larger bond is required based on the estimated cost to repair, complete or properly decommission (abandon) a well. (7-1-93)()

03. Additional Requirements. (7-1-93)

a. A driller ~~shall~~ must demonstrate to the satisfaction of the Director that he has the experience and knowledge to adequately construct or decommission (abandon) a well which encounters warm water or pressurized aquifers. (7-1-93)()

b. A driller ~~shall~~ must demonstrate to the satisfaction of the Director that he has, or has immediate access to, specialized equipment or resources needed to adequately construct or decommission (abandon) a well. (7-1-93)()

041. -- 044. (RESERVED).

045. DRILLING PERMIT REQUIREMENTS (RULE 45).

01. General Provisions. (7-1-93)

~~a.~~ *The owner of a well to be constructed, drilled, deepened or enlarged on or after July 1, 1987 shall obtain a drilling permit from the Director prior to construction or drilling of the well. Drilling permits are required pursuant to Section 42-235, Idaho Code, prior to construction of any well.* (7-1-93)(____)

~~b.~~ *The owner of a well under construction prior to July 1, 1987, for which the drilling equipment is at the site and construction is ongoing, shall not be required to obtain a drilling permit, provided that construction of the well was complete by August 1, 1987. The Director may extend the date for good cause.* (7-1-93)

~~c.~~ *The Director may issue a drilling permit to the owner of a proposed well, to the driller employed to construct the well, or to the owner's representative.* (7-1-93)

~~d.~~ Drilling permits will not be issued for construction of a well which requires another separate approval from the department, such as a water right permit, transfer, amendment or injection well permit, until the other separate ~~approval has been given by the department~~ permitting requirements have been satisfied. ~~The Director may grant a waiver if he determines that the public interest will be served by an expedited approval.~~ (7-1-93)(____)

~~e.~~ The Director may allow the use of a start card permit or give verbal approval to a well driller for the construction of ~~certain wells such as cold water single family domestic wells and stockwater wells which do not require other separate approvals from the department, provided the driller files the drilling permit and appropriate fee with the Director within thirty (30) days of the verbal approval.~~ Start cards must be received by the Department at least two office hours prior to commencing construction of the well. (7-1-93)(____)

~~f.~~ The Director may give verbal approval to a well driller for the construction of a well for which other permitting requirements have been met, provided that the driller files or owner has filed the drilling permit application and appropriate fee ~~with the Director within thirty (30) days of the verbal approval.~~ (7-1-93)(____)

~~g.~~ The Director will not give a verbal approval or allow the use of a start card permit for wells ~~construction or drilling constructed~~ in a designated ~~Area of Drilling Concern, Critical Ground Water Area, or Ground Water Management Area.~~ (7-1-93)(____)

~~h.~~ *Failure of the driller to submit a completed drilling permit and fee within the thirty (30) day period after receiving verbal approval to construct a well is cause for the Director to seek the penalties provided by statute and by these rules.* (7-1-93)

~~i.~~ *After the effective date of these rules, a well driller shall will not construct, drill or modify any well until a drilling permit has been issued, or verbal approval is given granted.* (7-1-93)(____)

02. Effect of a Permit. (7-1-93)

a. A drilling permit authorizes the construction, ~~drilling~~ or modification of a well in compliance with these rules and the conditions of approval on the permit. (7-1-93)(____)

b. A drilling permit does not constitute a water right ~~permit~~, injection well permit or other authorization which may be required, ~~from the department prior to actual well construction and does not authorize authorizing~~ use of water from ~~the~~ a well or discharge of fluids into ~~the~~ a well. (7-1-93)(____)

c. A drilling permit may not be assigned from one owner to another or from one driller to another. (7-1-93)(____)

d. A drilling permit authorizes the construction of one (1) well (except ~~group~~ for blanket monitoring well drilling permits) ~~unless other holes started under terms of the permit are properly abandoned and the department is advised of the abandonment.~~ (7-1-93)(____)

03. Exclusions. (7-1-93)

~~a. Geotechnical borings for the purpose of mineral exploration or for the design of foundations for structures or for the design of dams and embankments~~ For the purposes of these Rules, artificial openings and excavations that do not constitute a well and are not subject to the drilling permit requirements ~~but shall~~ must be modified, constructed, and or decommissioned (abandoned) in accordance with minimum well construction standards. The Director may require decommissioning (abandonment) of artificial openings and excavations constructed pursuant to Rule 45, Subsection 045.03 of these rules, when the use ceases or if the holes may contribute to waste or contamination of the ground water. The following types of artificial openings and excavations are not considered wells: (7-1-93)(____)

a. Artificial openings and excavations with total depth less than eighteen (18) feet. (____)

b. ~~The Director may require abandonment of wells constructed pursuant to Rule 045.03.a. if the wells are determined to cause waste or contamination of the ground water.~~ Artificial openings and excavations for collecting soil or rock samples, determining geologic properties, or mineral exploration or extraction, including gravel pits. (7-1-93)(____)

c. ~~Wells constructed pursuant to Rule Subsection 045.03.a. shall be abandoned in compliance with adopted rules when use of the wells cease.~~ Artificial openings and excavations for oil and gas exploration for which a permit has been issued pursuant to Section 47-320, Idaho Code. (7-1-93)(____)

d. Artificial openings and excavations constructed for de-watering building or dam foundation excavations. (____)

04. Converting an Artificial Openings or Excavations Not Constructed as a Well for Use as a Well. Artificial openings and excavations that were not constructed as a well pursuant to a drilling permit, if subsequently converted to obtain water, monitor water quantity or quality, or to dispose of water or other fluids, must be reconstructed by a licensed driller in compliance with well construction standards and drilling permit requirements. (____)

045. Fees. (7-1-93)

a. ~~A drilling permit fee is not required for a well constructed and completed prior to July 1, 1987, provided the well is not deepened or the dimensions of the well are not increased on or after July 1, 1987.~~ Drilling permit fees are as prescribed by Section 42-235, Idaho Code. (7-1-93)(____)

b. ~~The drilling permit fee for construction of a well for a single family domestic use, stockwater use, class V(c) heat pump injection associated with a single family domestic use or monitoring use or for any use with a rate of diversion of four one hundredths (0.04) cubic feet per second or less and for the storage of four (4) acre feet per year or less shall be ten (\$10) dollars. (See IDAPA 37.03.03, "Rules for Construction and Use of Injection Wells" for the description of class V(c) injection wells).~~ (7-1-93)

c. ~~The Director may issue a blanket drilling permit for site specific monitoring programs prepared by a licensed engineer or licensed geologist as provided in Section 42-235, Idaho Code, upon submittal of a fifty dollar (\$50) fee.~~ (7-1-93)

d. ~~The drilling permit fee for well uses which are not included in Rules Subsections 045.04.b. and 045.04.c. shall be one hundred dollars (\$100).~~ (7-1-93)

e. The difference between the drilling permit fee required by ~~Rules Subsections 045.04.b. through 045.04.d.,~~ Section 42-235 Idaho Code as applicable, ~~shall~~ must be paid when an existing well constructed on or after July 1, 1987, for which the lower drilling permit fee was paid, is authorized by the ~~Department~~ Director for a use which would require the larger drilling permit fee. ~~This rule applies even though the existing well is not deepened or~~

~~the dimensions of the well are not increased.~~

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

~~f. A drilling permit fee will not be required for a new or additional use from an existing well constructed on or after July 1, 1987, when the drilling permit fee for the new or additional use is the same amount which was previously paid for construction of the well in connection with the existing use.~~

~~(7-1-93)~~

046. -- 049. (RESERVED).

050. PENALTIES (RULE 50).

A person owning or controlling a well that allows waste or contamination of the state's ground water resources or causes a well *not* to meet ~~the construction standards provided in these~~ a lesser standard than required by these ~~Rules~~ is subject to the civil penalties as provided by statute. A driller who violates the foregoing provisions of these ~~minimum~~ well construction standards ~~Rules~~ is subject to enforcement action and the penalty provisions specified in 42-238 and 42-238b, Idaho Code penalties as provided by Statute.

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

051. -- 999. (RESERVED).

APPENDIX A

Figure 01. Concrete Slabs and Finished Grade.

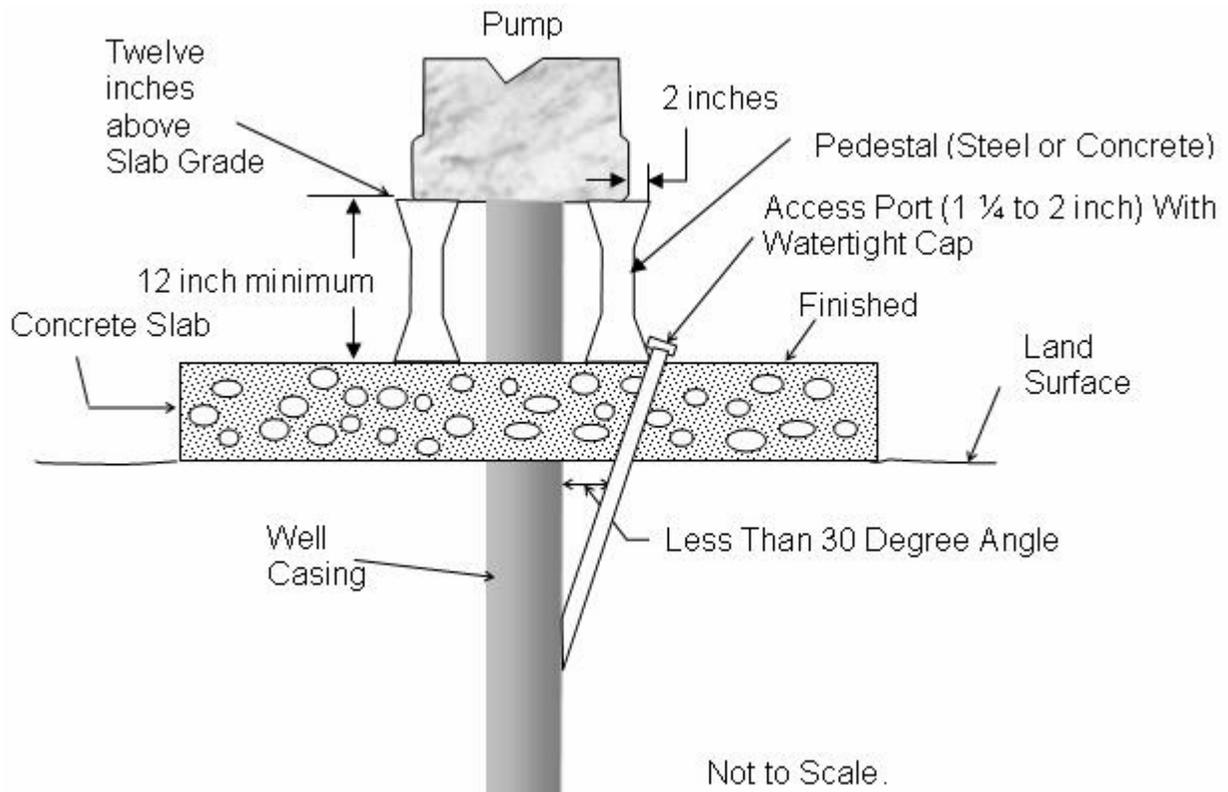


Figure 02. Annular Space and Overbore.

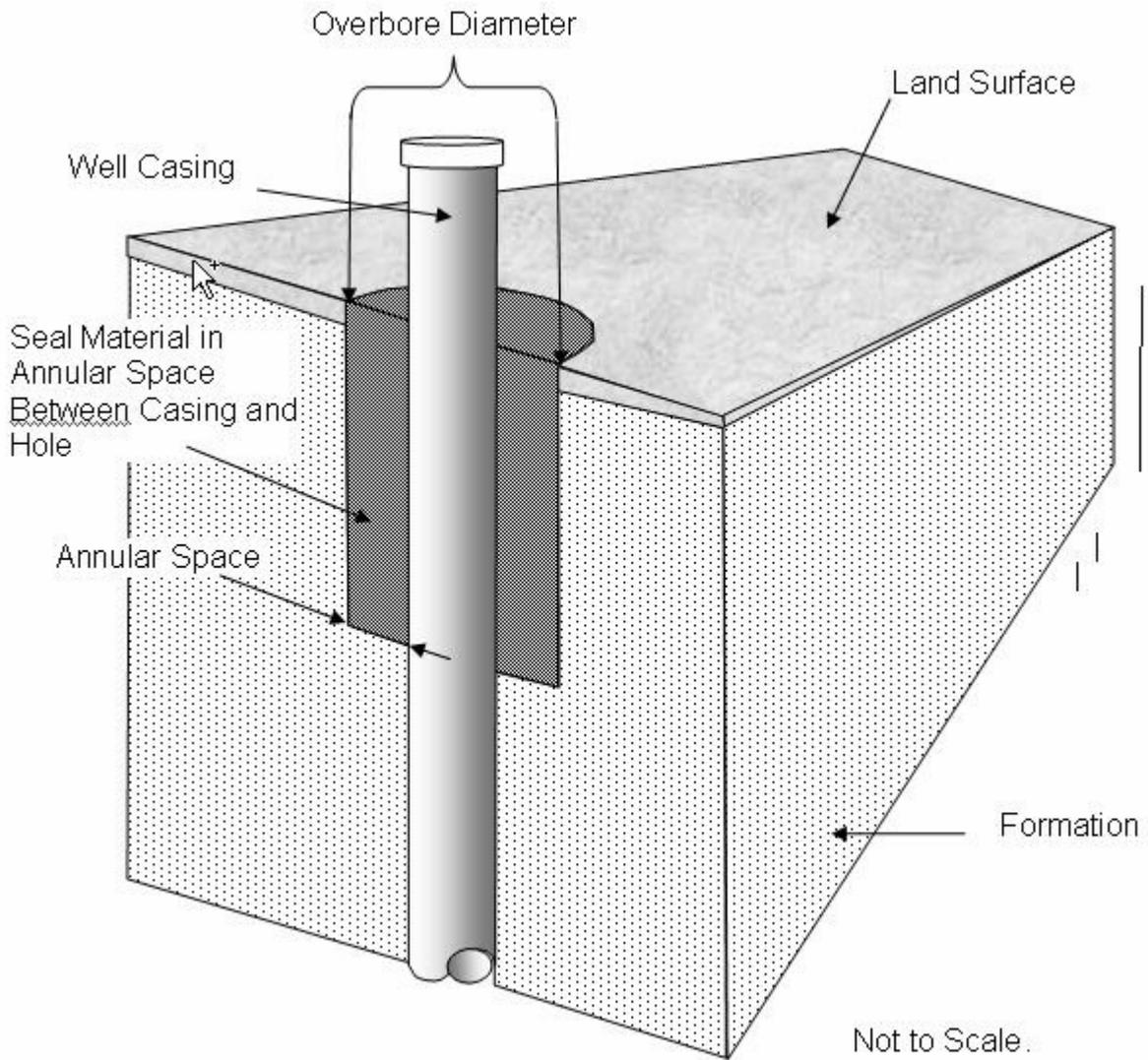


Figure 03. Overbore Requirements When a Tremie Pipe is Left in Place and A Grout Seal Installed.

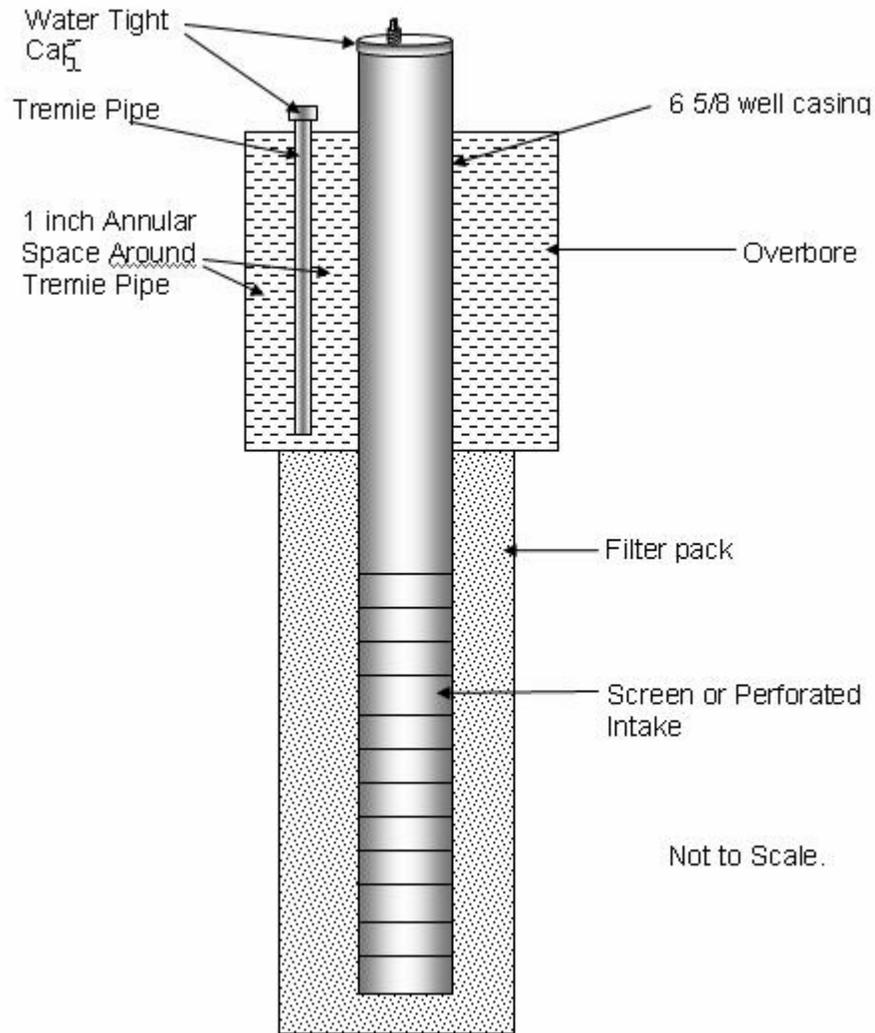


Figure 04. Sealing Requirements in Consolidated Formations.

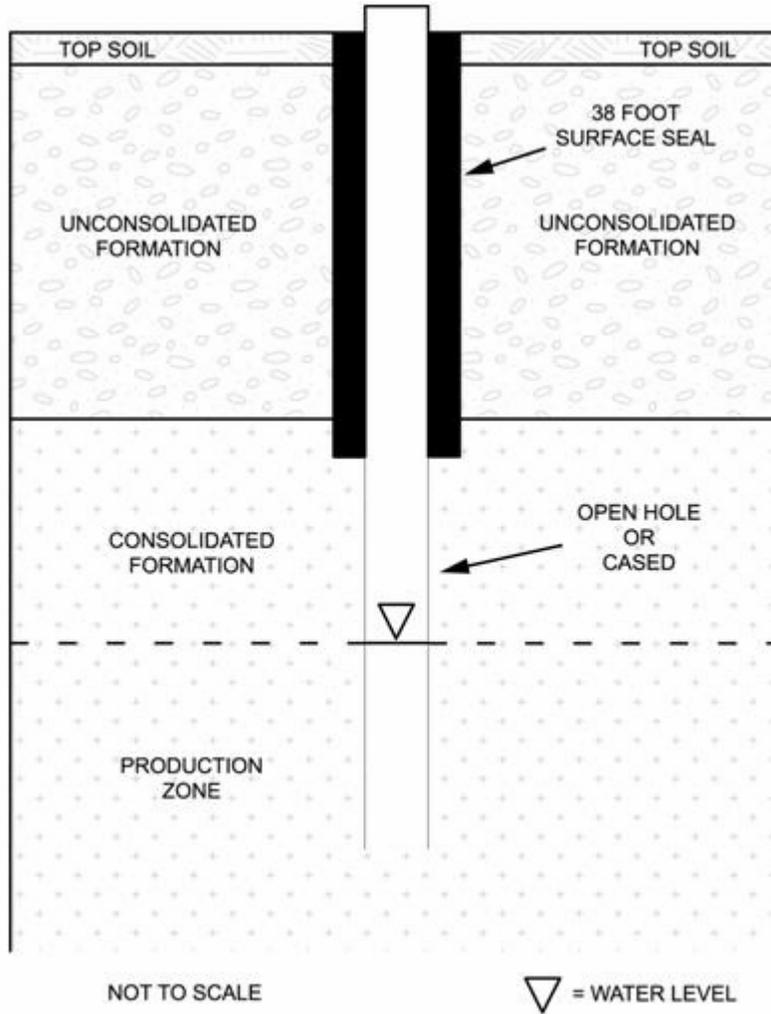


Figure 05. Sealing Requirements in Unconsolidated Formation without Confining Layers.

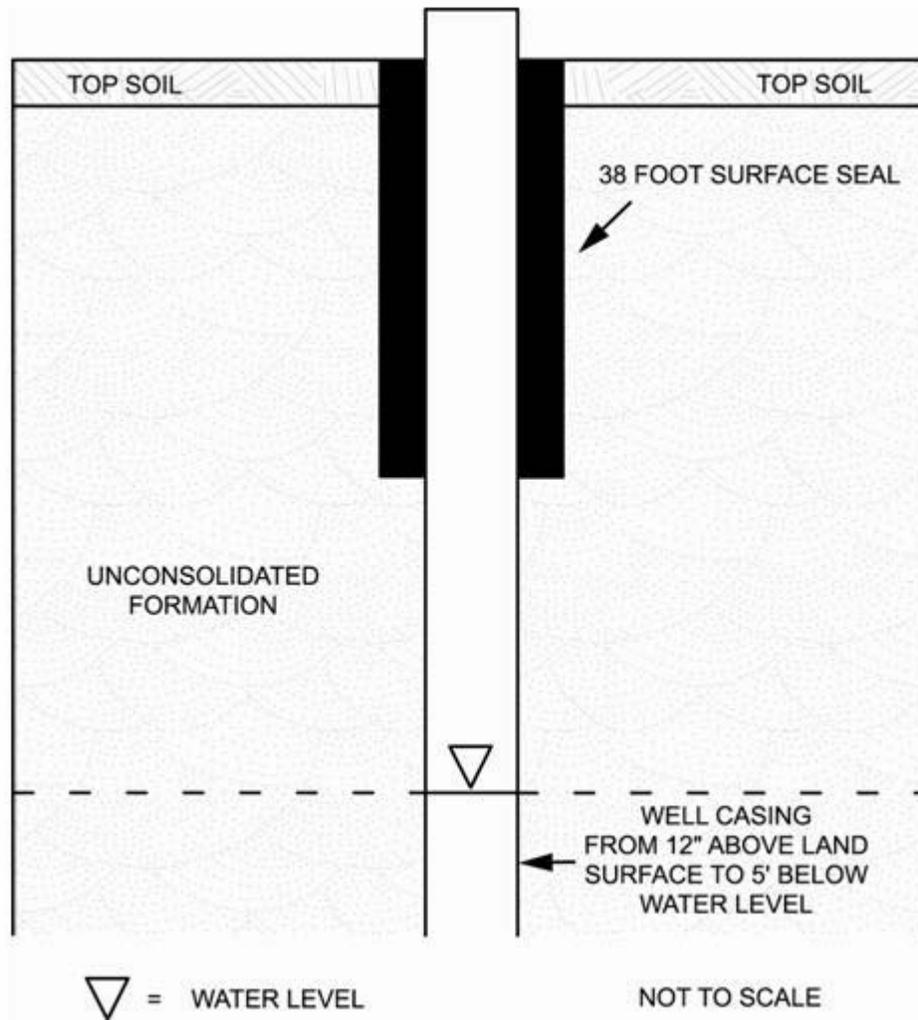


Figure 06. Rathdrum Prairie Boundary.
(Also See Figure 7).

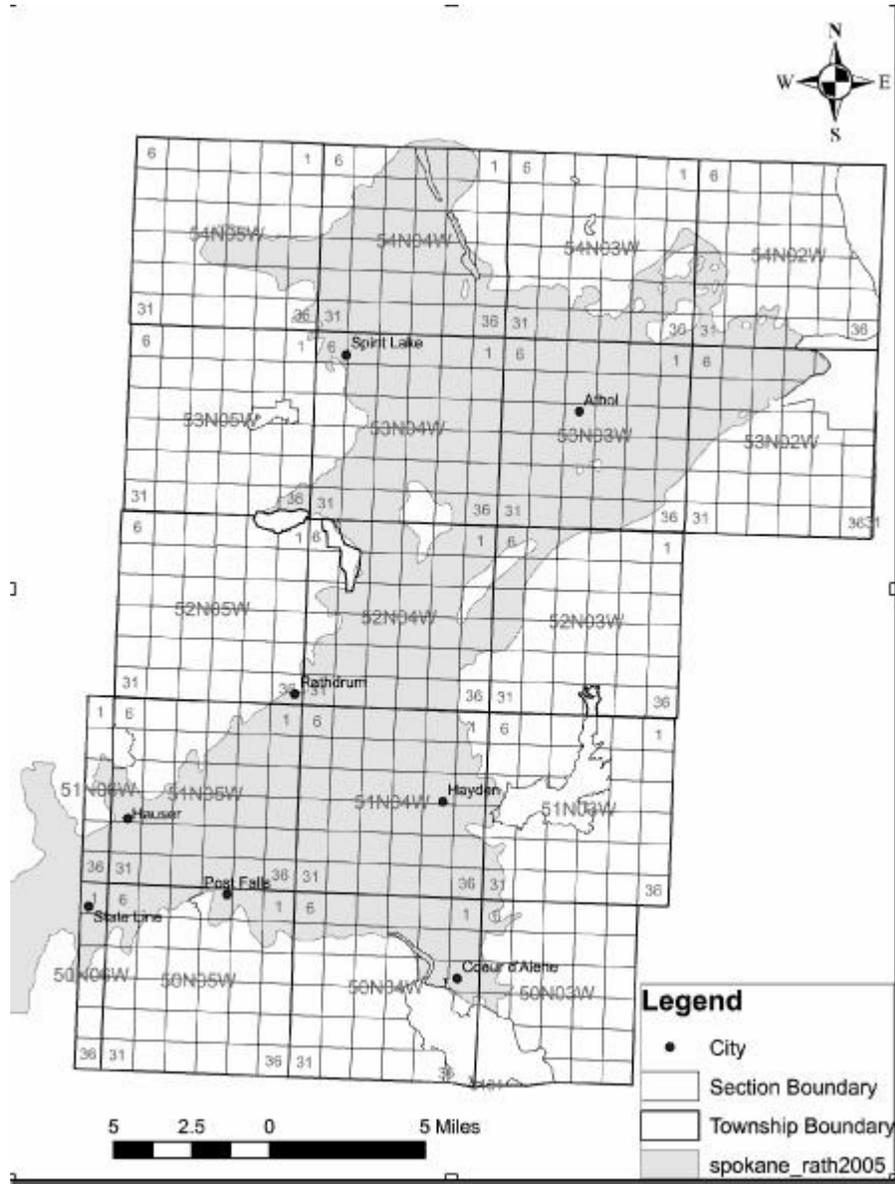


Figure 07. Sealing Requirements in the Rathdrum Prairie.
(Also See Figure 6).

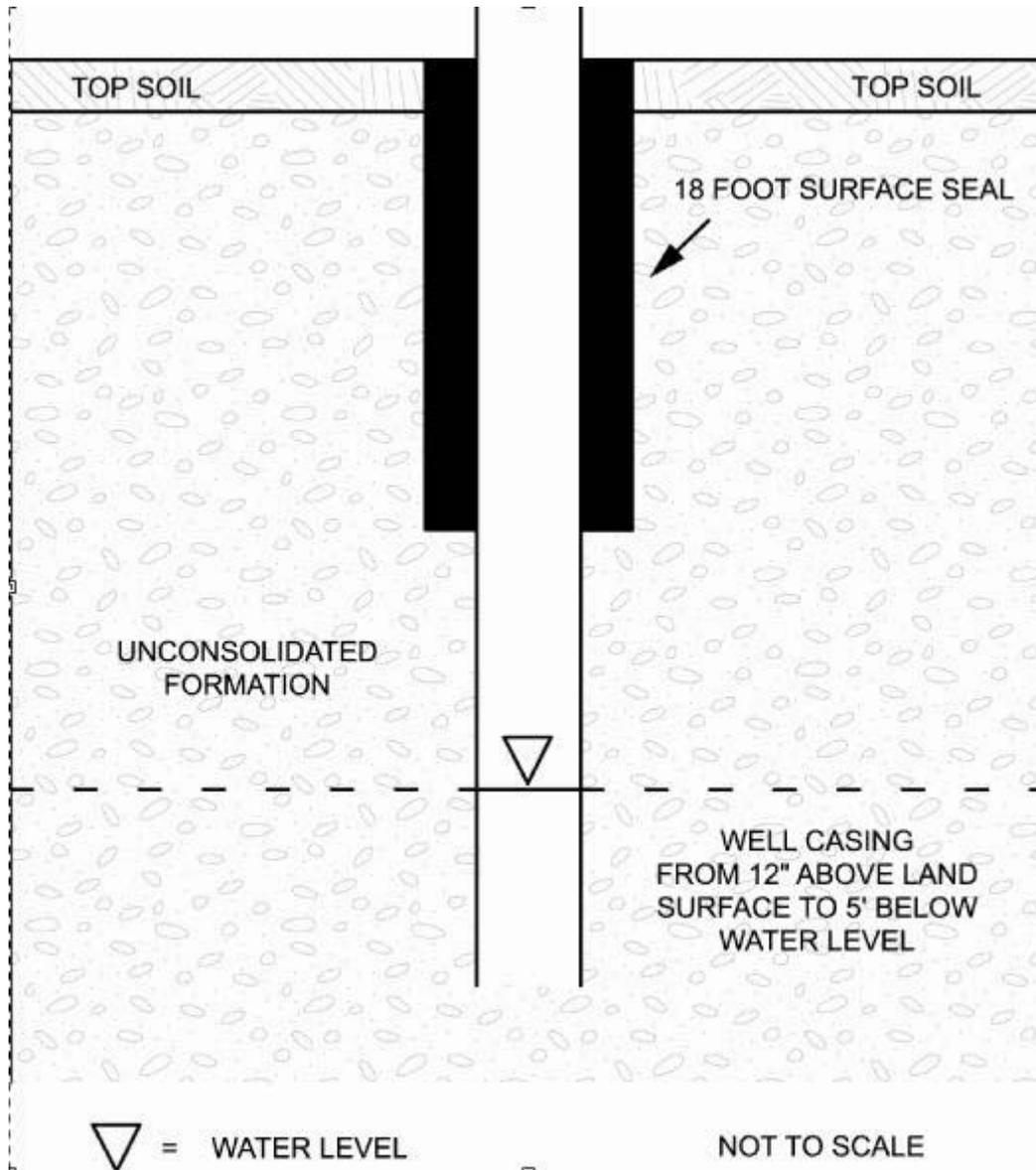


Figure 08. Sealing Requirements in Unconsolidated Formations with Confining Layers.

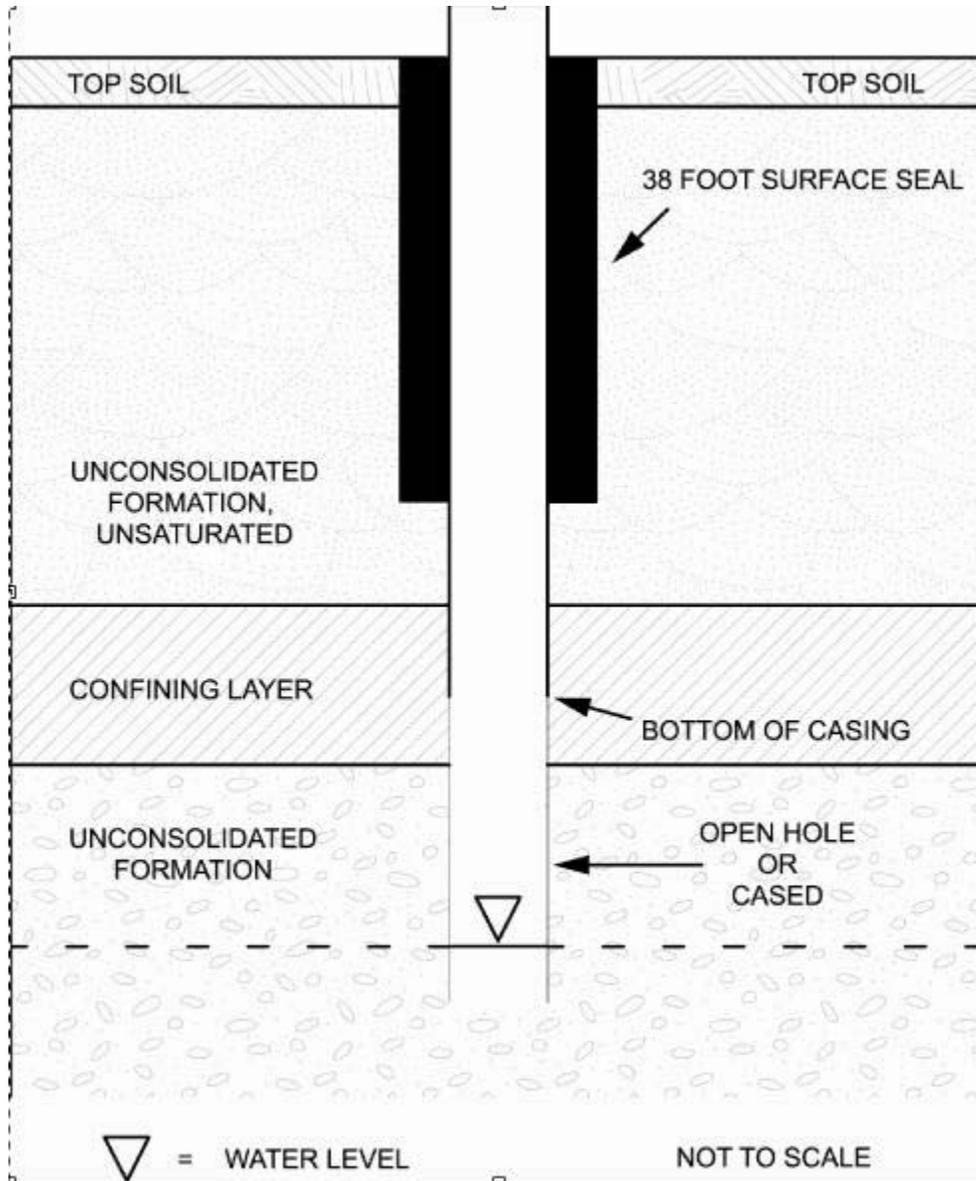


Figure 09. Sealing Requirements for Artesian Wells in Unconsolidated Formations.

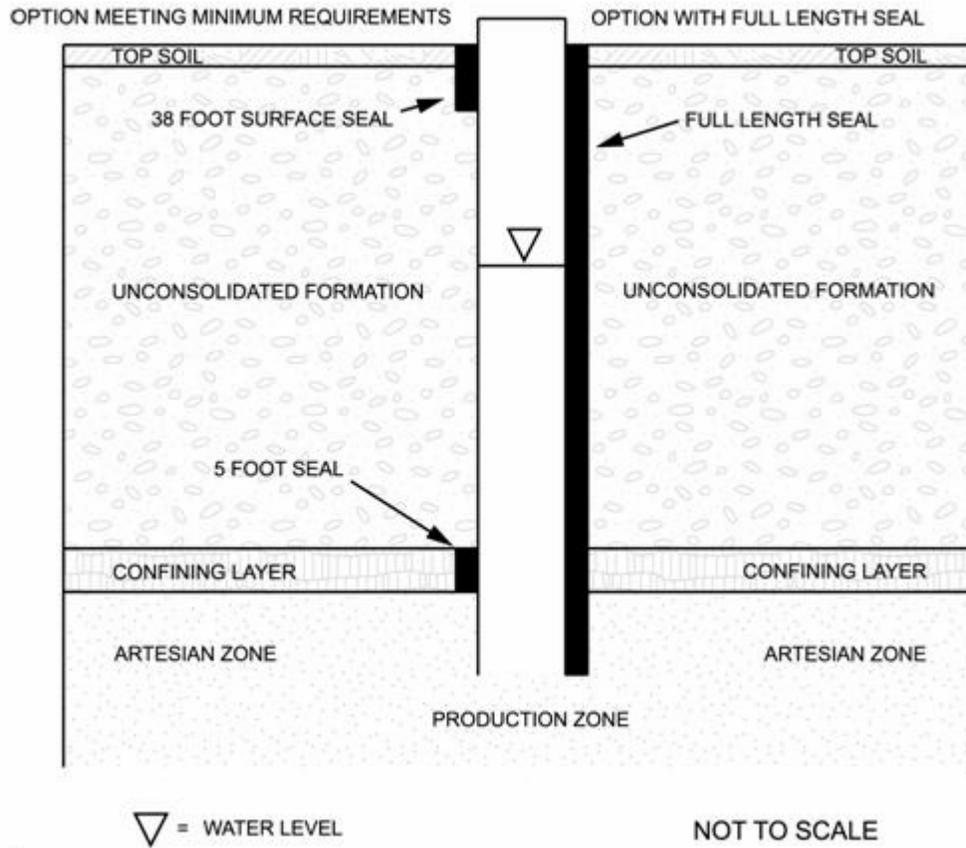


Figure 10. Sealing Requirements for Artesian Wells in Consolidated Formations.

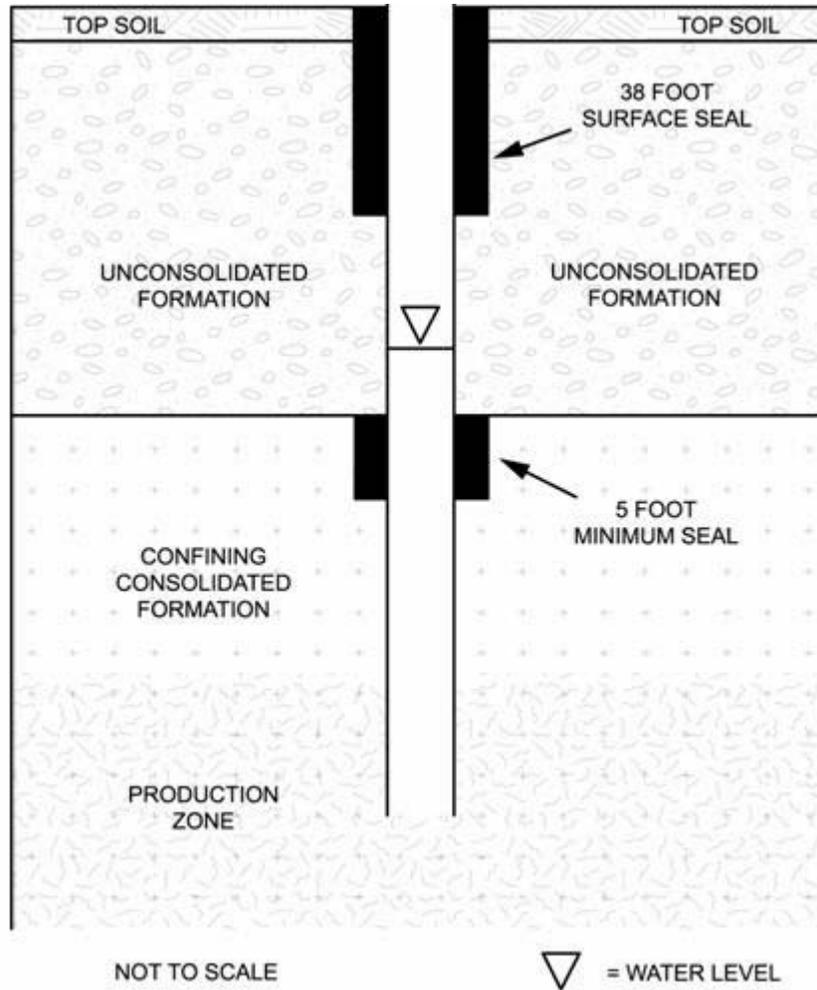
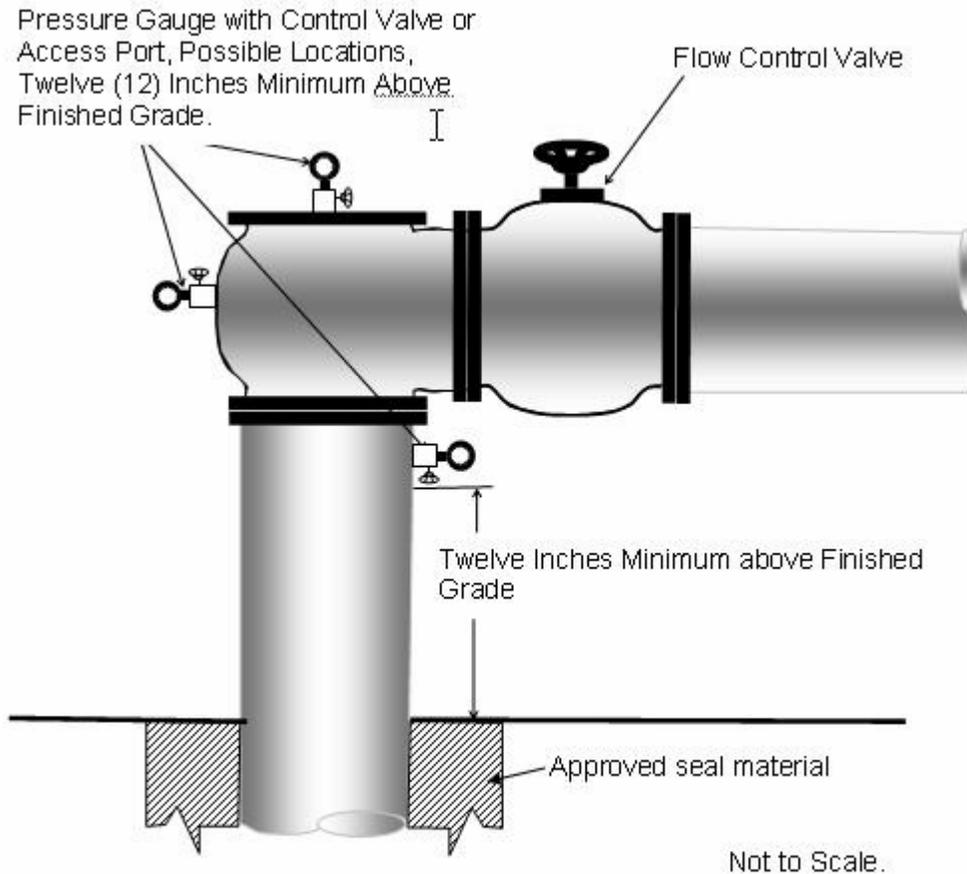


Figure 11. Access Ports, Pressure Gauges, and Control Valves.



Note. Application and Approval of Control Device is Required on Any Flowing Artesian Well per Section 42-1603, Idaho Code.

Figure 12. Well Cap and Access Port.

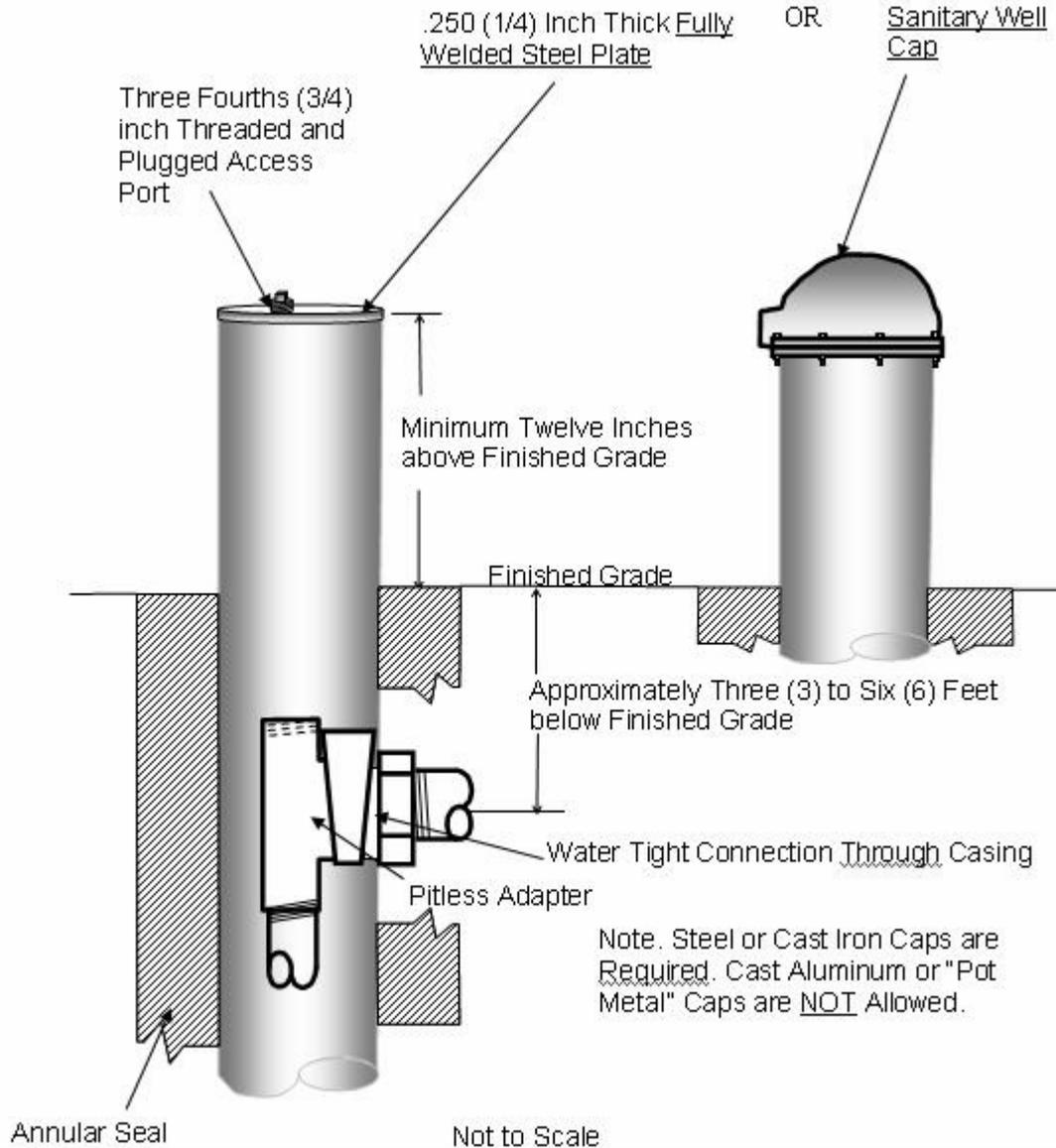
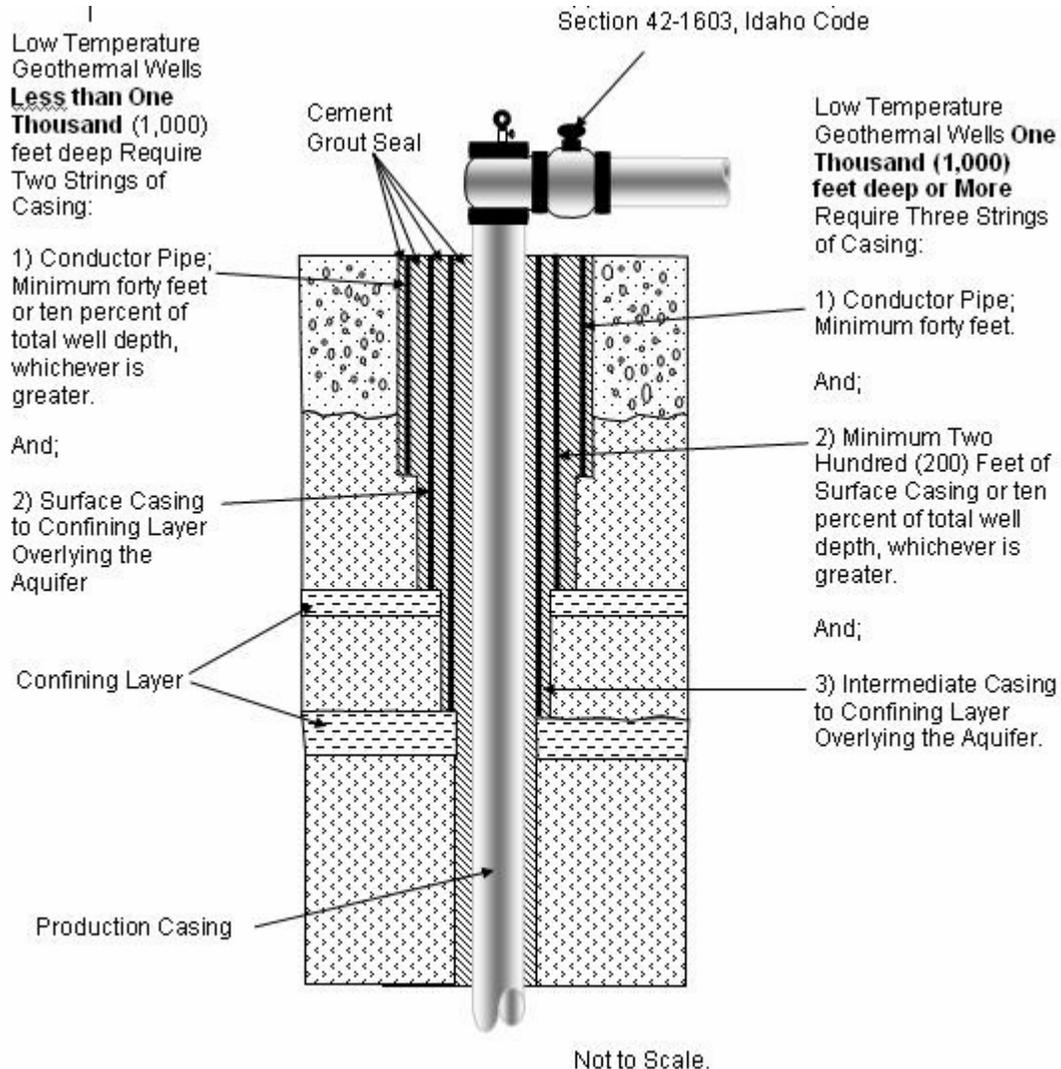


Figure 13. Casing Segments for Low Temperature Geothermal Wells.



IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.22 - RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rule-making procedures. The action is authorized pursuant to Sections 49-201, 49-434, and 49-439, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

This rule change will clearly state that motor carriers shall not participate in future registration installment payment plans as allowed in Idaho Code 49-434(10) and 49-434(11), if previous registration installment payment plans have been suspended due to non-payment or payment with an insufficient funds check.

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

Not applicable.

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

There is no fiscal impact on the state general fund.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because it is unlikely that those persons affected by this action would reach consensus. It is incumbent on the agency to take this action to protect and preserve state resources.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jerri Hunter, International Registration Plan (IRP) Supervisor, 334-8626.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 24th, 2008

DATED this 1st day of August, 2008.

Linda L. Emry
Administrative Rules Coordinator
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone - 208-334-8810
FAX - 208-332-4107

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0222-0801

200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION.

The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. (3-19-07)

01. Requirements to Participate in Installment Payments. (3-19-07)

- a.** Participant must sign participation contract agreement. (3-19-07)
- b.** Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees shall not be included. (3-19-07)
- c.** Only full annual registration fees shall be included in payment plan. Registrations for less than one full year shall not be included. (3-19-07)
- d.** Vehicles not registered within thirty (30) days after the previous year registration has expired shall not be eligible for the installment payment option. (3-19-07)
- e.** Installment contract requirements do not provide opportunity for registrant to opt out of any remaining installment payments. The balance of the payment plan shall continue to be paid even if the truck is not being operated. (3-19-07)

f. If registrant sells vehicle or otherwise disposes of vehicle, and the applicant provides proof of sale, upon returning the license plate, registration certificate, and validation sticker, the prorated portion of the Idaho fee shall be credited toward the installment plan or refunded if the plan has been paid in full. (3-19-07)

g. Registrant shall not participate in future installment payment plans if the registrant's installment payment plan account has previously been suspended due to non-payment of previous payment plan or ISF check; furthermore, the entire balance of the plan installments including penalties and fee will be due and payable to reinstate. ~~(3-19-07)~~()

h. The contract shall stipulate the payment periods and the installment confirmation letter shall stipulate the due dates of each subsequent payment. (3-19-07)

02. Billings, Payments and Due Dates of Installment Plan. (3-19-07)

- a.** The department shall upon acceptance of the contract by the registrant, receive one-quarter of the annual registration payment, and then shall bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are the third, sixth, and ninth months after the effective date of the registration. (3-19-07)
- b.** All installment payments are due no later than the last day of the month in which the billing is due. (3-19-07)
- c.** US Postal Service postmark shall be used to determine if payment is received on time. If the envelope is postmarked on or before the last day of the month, the payment shall be considered "on time." (3-19-07)
- d.** If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date. (3-19-07)
- e.** Non receipt of the department's billing notice does not relieve the burden of the registrant to pay the installment amount by the due date. (3-19-07)

- 03. Failure to Pay Installment Payment by Due Date.** (3-19-07)
- a.** The department shall send out courtesy pre-suspension notices to registrants who have failed to remit payment by the due date printed on the quarterly billing. (3-19-07)
- b.** The pre-suspension letter shall contain a late penalty fee of ten percent (10%) of the amount due and an additional one percent (1%) for each month or portion of a month that the payment is past due. (3-19-07)
- c.** Registrant shall pay installment amount portion that is due, plus assessed penalties and interest. (3-19-07)
- 04. Suspension of Registrant's Account Due to Non-Payment of Payment Plan.** Approximately two (2) weeks after pre-suspension notices are mailed to the registrant, the department shall suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. (3-19-07)
- 05. Reinstatement Fee for Payment Plan Registration.** (3-19-07)
- a.** A forty dollar (\$40) reinstatement fee shall be applied to all payment plan accounts that have been suspended. (3-19-07)
- b.** Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension shall be cleared from account. (3-19-07)
- ~~**06. Repetitive Suspensions Result.** After accounts of registrant's have been suspended for delinquent installment payments two (2) or more times in one (1) payment plan year, the registrant shall not be allowed to participate in future payment plan programs. (3-19-07)~~

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE

DOCKET NO. 39-0306-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 40-312(1) and 49-1011, Idaho Code and Section 49-1010(4)(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

This rulemaking ensures compliance with Section 49-1010(4)(b), as amended by House Bill 181, in 2005, which limits the overhang or extension of a load beyond the end of a vehicle to no more than 10 feet.

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

Compliance with Section 49-1010(4)(b), as amended by House Bill 181, in 2005.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not applicable.

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

NEGOTIATED RULE-MAKING: In compliance with IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule making is required for compliance with Idaho Code, and therefore, not negotiable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 1st day of August, 2008.

Linda L. Emry, Administrative Rules Coordinator
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone - 208-334-8810, FAX - 208-332-4107

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0306-0801

300. LOAD OVERHANG.

The overhang or extension of a load shall not extend: (9-14-92)

01. Front. More than four (4) feet beyond the front of a vehicle other than an automobile transporter or a boat transporter. (4-24-92)

02. Rear. More than ~~fifteen~~ ten (150) feet beyond the ~~last axle~~ end of a vehicle other than an automobile transporter or a boat transporter. (~~4-24-92~~)(7-1-08)T

03. Right Side. More than six (6) inches outside the right fender of a passenger vehicle. (4-24-92)

04. Left Side. Outside the left fender of a passenger vehicle. (4-24-92)

05. Auto or Boat Transporter. More than seven (7) feet front and rear combined length of an automobile transporter or boat transporter. (4-24-92)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY

DOCKET NO. 39-0345-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 58-335A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

This rulemaking is to ensure compliance with changes made to Section 58-335A, Idaho Code, in House Bill 483aa, in 2007, which provides that all surplus real property will be offered first to the adjacent land owner.

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

Compliance with House Bill 483aa, effective 7/1/08.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not applicable.

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

NEGOTIATED RULE-MAKING: In compliance with IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule making is necessary for compliance with Idaho Code, and therefore, not negotiable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marvin K. Brown, Sr. Right-of-Way Agent, 334-8515. Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 1st day of August, 2008.

Linda L. Emry, Administrative Rules Coordinator
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street

Boise ID 83707-1129
Phone - 208-334-8810
FAX - 208-332-4107

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0345-0801

010. DEFINITION.

- 01. Surplus Real Property.** Real property and the improvements thereon under the ownership and control of the Idaho Transportation Department outside the right-of-way limits which the Chief Engineer or his designee declares no longer useful or usable by the Department. (3-30-07)
- 02. Real Property.** ~~Real property~~ Land and improvements ~~within the Right of Way limits.~~ (7-1-97)(7-1-08)T
- 03. Appraisal.** An opinion of value formulated by a licensed Appraiser. (7-1-97)
- 04. Surplus Property Value Estimate.** An estimate of value for surplus real properties valued at ten thousand dollars (\$10,000) or less formulated by the Idaho Transportation Department or its agents. (7-1-97)
- 05. Public Sale.** Public auction or sealed bid. (7-1-97)
- 06. Administrative Fee.** A fee determined by the Department to include direct sale expenses. (7-1-97)
- 07. Department.** Idaho Transportation Department. (7-1-97)
- 08. District.** Individually or collectively the jurisdictional areas of the Department. (7-1-97)
- 09. Agent Appraiser.** Any individual, firm, partnership, or corporation that has contracted with the Department to express an opinion of value on surplus real property owned by the Department. (7-1-97)(7-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

301. METHOD OF SALE FOR PROPERTY ~~VALUED AT LESS THAN TEN THOUSAND DOLLARS.~~

Property shall first be offered to contiguous property owners. If more than one (1) contiguous property owner is interested in the property, a private auction will be held between those contiguous owners wishing to purchase the property. It shall be offered at an amount not less than the value estimate or appraisal. The sales price shall include any administrative fees established by the Department. Term sales of up to twenty (20) years (five (5) years if the property is purchased for less than ten thousand dollars (\$10,000)) may be offered at the discretion of the Department. If the property is not purchased by a contiguous owner, it shall be offered to public entities in the manner and in accordance with the priority set out in Section 302. (3-30-07)(7-1-08)T

302. SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES AT THE APPRAISED VALUE.

As stated in Section 301, if not purchased by a contiguous owner, ~~the~~ Department shall ~~first~~ then offer the property for sale or exchange at the appraised value to the following: state agencies, the county in which the property is located, the city in which the property is located, the highway district in which the property is located. State agencies are given first priority to acquire the property, county second, city third and highway district fourth. Other tax supported entities not enumerated will not specifically be notified, but will have the fifth priority to purchase the property. The sale price shall include any administrative fees established by the Department. (3-30-07)(7-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

304. METHOD OF SALE FOR PROPERTY NOT PURCHASED BY A PUBLIC ENTITY OR A CONTIGUOUS PROPERTY OWNER.

If no public agency purchases a property offered for sale, or if property ~~appraised under ten thousand dollars (\$10,000)~~ is not purchased by a contiguous property owner ~~or by a public agency~~, the surplus property will be offered at public sale for not less than the appraised price. The sales price shall include any administrative fees established by the Department. Term sales of up to twenty (20) years (five (5) years if the property is purchased for less than ten thousand dollars (\$10,000)) may be offered at the discretion of the Department. (3-30-07)(7-1-08)T

IDAPA 52 - IDAHO STATE LOTTERY

52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION

DOCKET NO. 52-0102-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-7714, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The proposed rule changes are necessary housekeeping measures to correctly reflect statutory amendments to Sections 67-7702 and 67-7709, Idaho Code, effective July 1, 2008. Consistent with statutory directives, the proposed rule changes are also necessary to clarify and set forth charitable gaming reporting requirements to ensure accountability of charitable organizations and nonprofit organization bingo and raffle operations. Consistent with 2008 statutory amendments, the rule changes clarify language to assure that the organizations that participate in charitable gaming are legitimate charitable or nonprofit organizations and that the profits from these games are used for charitable purposes. The rule changes also limit the ability of a "for profit" business to use a legitimate charity for personal gain and require bingo vendors to supply detailed information on invoices to improve tracking and accountability.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, informal negotiated rulemaking was conducted by presenting the rulemaking as an agenda item for discussion at a public meeting of the Bingo Advisory Board on July 1, 2008.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber French, Security Director, (208) 334-2277.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 17th day of July, 2008.

Jeff Anderson, Director
Idaho State Lottery
1199 Shoreline Ln., Ste. 100
Boise, ID 83702
Phone: (208) 334-2600
Fax: (208) 334-2610

THE FOLLOWING IS THE TEXT OF DOCKET NO. 52-0102-0801

004. ADMINISTRATIVE ARM OF IDAHO STATE LOTTERY (RULE 4).

The Lottery Security Division is the administrative arm of the Lottery that will be responsible for licensing, controlling and regulating bingo games and raffles ~~under the jurisdiction of the Lottery is the Lottery Security Division of the Lottery~~ and assuring that profits realized by charitable groups and institutions through the conduct of charitable gaming are used for charitable purposes. The Lottery Security Division shall provide all application forms, reporting forms and other documents necessary for submission to the Lottery. See Section 67-7714, Idaho Code.

(7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (RULE 10).

As used in these rules, each word defined in this Section has the meaning given here unless a different meaning is clearly required from context: (4-2-08)

01. Audit. The review of documents or other records pertaining to operation of bingo or raffles, including, but not limited to, ledgers, bank statements, checks and deposit records, nightly logs, receipts, register tapes, computer records, contracts and leases, records showing use of ~~gross~~ all revenues for charitable activities, and tax records, by representatives of the Lottery, the attorney general, other law enforcement agencies, or independent auditors. (4-2-08)(____)

02. Autodaubing Features or Autodaubing. Electronic bingo card daubers, including software or equipment interfaced with electronic bingo cards that automatically daub the numbers as called without requiring the player to manually input the number called. (4-2-08)

03. Bingo. The traditional game of chance using a card with five (5) rows and five (5) columns containing numbers from a range of one (1) to seventy-five (75) and played for a prize determined before the game begins, as elaborated in Subsection 010.03 of these rules, and other games authorized by Title 67, Chapter 77, Idaho Code, and by these rules, for example, "U-Pick Em." See Section 67-7702(1), Idaho Code: (4-2-08)

a. Bingo Cards, Regular. Regular bingo cards (reusable or disposable) contain five (5) rows and five (5) columns of squares arranged in a five-by-five (5x5) grid; each square is imprinted with randomly placed numbers from a range of one (1) through seventy-five (75), except for the center square, which may be a free space. The letters "B-I-N-G-O" must also be imprinted on the card in order with one (1) letter above each of the five (5) columns (the letter "B" above the first column and so on). (4-2-08)

b. Bingo Cards, Electronic, or Face. An electronic facsimile of a regular bingo card. See Section 67-7702(6), Idaho Code. (4-2-08)

c. Play Method. Players who have paid consideration for the cards that they are holding compete for a prize by covering numbers on their cards when designators with the same number are randomly drawn and called. The balls or other designators in the selection device are numbered in the same manner as the possible numbers on the bingo cards, from one (1) through seventy-five (75). The winner is the first player to cover a predetermined arrangement of numbers on the players' cards, for example, any row, column or diagonal of the five (5) rows and (5) columns and two (2) diagonals of the bingo card. Upon approval of the Bingo-Raffle Advisory Board there may be other forms of bingo games allowed, such as, but not limited to, Blackouts, Bonanza, and "U-Pick Em" games. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo. Each winning card must be independently verified by a floor worker and another player by calling back the winning combination of numbers in the predetermined arrangement or by entering the serial number printed on the bingo card into an electronic verification system that can verify whether a card is a winner. (4-2-08)

d. Exclusions from Bingo. Bingo does not include "instant bingo," which is a game of chance played by the selection of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted

winning designation on the card. (4-2-08)

04. Bingo-Raffle Advisory Board or Board. The board established and appointed according to Sections 67-7702(2), 67-7703, and 67-7704, Idaho Code. (4-2-08)

05. Blackout. A game of bingo where all numbers are covered on a bingo card. This game is also referred to as “coverall.” (4-2-08)

06. Bonanza. A game of bingo that is played on a prefolded card or on another kind of card on which the numbers are not revealed until the card is purchased and in which a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no “Bingo” called on these numbers, the game may continue with one (1) additional ball emitted at a time until there is a winner. (4-2-08)

07. Charitable Contribution Acknowledgement Report Form or CCARF. A form, prepared by the Director, upon which the recipient of a donation for a charitable purpose must indicate the charitable purpose for which the donation will be used; the name, address, and phone number of the person receiving the donation; and acknowledgement that the recipient will provide any and all information necessary in order for the Director or his representatives to verify that the donation was used for a charitable purpose, as well as any other information needed by the Director to assure that the donation is used for a charitable purpose. See Section 67-7709(2), Idaho Code. (4-2-08)

08. Charitable Donation Reporting Form. A form prepared by the Director, upon which each licensed organization shall record all charitable donations made from the proceeds of charitable bingo or raffles held during the license year on which they are reporting. This report shall require the names, addresses, contact person’s name, contact person’s telephone number, dollar amount and purpose of the donation. This report will be submitted to the Lottery along with the Annual Bingo Report or Annual Raffle Report and will be subject to audit as defined in Subsection 010.01. ()

089. Charitable Organization. ~~Any organization defined as a “charitable organization” by See definition in Section 67-7702(3), Idaho Code.~~ (4-2-08)()

0910. Charitable Purpose. A purpose of supporting a bona fide charitable organization, as defined by Section 67-7702(3), Idaho Code. (4-2-08)

101. Commission. The Idaho State Lottery Commission established and appointed according to Sections 67-7402, 67-7404(2) and 67-7405, Idaho Code. See Section 67-7702(4), Idaho Code. (4-2-08)

112. Concessions. Food and beverages or other incidental items (for example, caps or tee-shirts) unrelated to gaming that are sold to players at bingo games. (4-2-08)

123. Director. The Director of the Idaho State Lottery appointed and confirmed according to Section 67-7407, Idaho Code. (4-2-08)

134. Disposable Paper Bingo Card. A non-reusable, paper bingo card. (4-2-08)

145. Distributor. Any person who purchases or otherwise obtains or supplies equipment for use in conducting gaming activities, including, but not limited to, bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment or supplies to any person or entity who engages in gaming activity. (4-2-08)

156. Duck Race. A charitable raffle as defined in Section 67-7702(5), Idaho Code. (4-2-08)

167. Electronic Bingo Device. An electronic device used to monitor bingo games as defined by Section 67-7702(7), Idaho Code. Electronic bingo devices may be used to monitor bingo cards (“mind cards”) only if they meet the requirements of Section 67-7702(7)(a), Idaho Code. No devices described in Section 67-7702(7)(b), Idaho Code, can be lawfully used in a bingo operation. (4-2-08)

178. Electronic Gaming Devices. Gaming or gambling devices electronically operated by inserting a

coin or token and then pulling a handle or pushing a button to activate the game. Electronic gaming devices can generate points or payout slips for accumulated wins. (4-2-08)

189. Gaming. Gambling as defined in Section 18-3801, Idaho Code, including gaming authorized by Title 67, Chapters 74 and 77, Idaho Code. (4-2-08)

~~**190. Gross Revenues from Bingo or Raffles.** All revenues collected for playing bingo or a raffle, excluding concessions. See definition in Section 67-7702(8), Idaho Code. (4-2-08)()~~

a. For Bingo. All moneys paid by players during a bingo game or session of play bingo, including fees for use of electronic bingo cards or electronic bingo devices, but excluding money paid for concessions. Gross revenues are calculated before any deductions for prizes or other expenses. (4-2-08)

b. For Raffles and Other Gaming Authorized by Title 67, Chapter 77, Idaho Code. All moneys or other value paid to or due to any operator of a raffle or other gaming authorized by Title 67, Chapter 77, Idaho Code, activity for any chance taken or other fees for participation in the raffle or other gaming activity. Gross revenues are calculated before any deductions for prizes or other expenses. (4-2-08)

201. Hard Bingo Cards. Reusable bingo cards with sliding windows or shutters to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars (\$10,000) of annual gross revenue or for special occasions. (4-2-08)

212. Holiday Christmas Tree Fundraiser. A charitable game played by persons bidding on decorated holiday trees, as defined by Section 67-7702(9), Idaho Code. (4-2-08)

~~**223. Host System.** *The computer hardware, software and peripheral equipment used to generate or download electronic bingo cards and to monitor sales and other activities of a site system, as defined by See definition in* Section 67-7702(10), Idaho Code. (4-2-08)()~~

234. Instant Bingo. A Lottery game played by the use of premarked cards which, when opened, scratched or otherwise revealed, determine whether the cardholder is a winner without any competition among players. "Instant Bingo" is not a game of "Bingo" as defined by these rules. (4-2-08)

245. License. A permission issued by the Director of the Lottery to operate bingo games or raffles or to manufacture, sell, distribute, furnish or supply gaming machines, equipment or material. (4-2-08)

256. Licensed Game Operator. A person who qualifies as a nonprofit or charitable organization who may operate bingo or raffles and who is licensed pursuant to Section 67-7711, Idaho Code. (4-2-08)

267. Licensed Vendor. A person who manufactures, sells, distributes, furnishes or supplies gaming machines, equipment or material who is licensed pursuant to Section 67-7715, Idaho Code. (4-2-08)

278. Lottery. The Idaho State Lottery created by Section 67-7402, Idaho Code, and, as context requires, the Lottery Commission and the Lottery's officers and employees. (4-2-08)

289. Manufacturer. Any person who fabricates or assembles a completed piece of gaming equipment or pieces of gaming equipment, or supplies completed gaming equipment, or pieces of gaming equipment for use in gaming activities, including, but not limited to, bingo and raffles, and who sells or otherwise furnishes the completed gaming equipment or pieces of gaming equipment to any distributor, operator, or retail outlet. (4-2-08)

2930. Net Proceeds of a Charitable Raffle. The gross revenues of a charitable raffle less the cost of prizes awarded. Net proceeds of a duck race mean gross revenues less the cost of prizes awarded and the rental cost of the ducks used in the race (if there are rental costs). See Section 67-7710(3), Idaho Code. Net proceeds of a holiday Christmas tree fundraiser mean the gross revenues less the costs of procuring the tree or other prizes. See Section 67-7710(3), Idaho Code. Donated prizes are considered to have no cost and do not reduce the receipts when calculating net proceeds. (4-2-08)

301. Nonprofit Organization. ~~An organization incorporated under Title 30, Chapter 3, Idaho Code, or an unincorporated association recognized under Title 53, Chapter 7, Idaho Code.~~ See definition in Section 67-7702(11), Idaho Code. (4-2-08)(____)

342. Organization. A charitable organization or a nonprofit organization ~~as defined in Section 67-7702(12), Idaho Code.~~ (4-2-08)(____)

323. Person. ~~All individuals, organizations, entities and governments or governmental units included with the definition of "person"~~ See definition in Section 67-7702(13), Idaho Code. (4-2-08)(____)

334. Raffle. An event in which prizes are won by random drawings or other selections of a ticket, duck or other means of identifying the one (1) or more persons purchasing chances. See Section 67-7702(14), Idaho Code. Duck races and holiday Christmas tree fundraisers are forms of raffles. See Sections 67-7702(5) and 67-7702(9), Idaho Code. (4-2-08)

345. Reusable Bingo Cards. Bingo cards constructed out of a durable material that use sliding windows or shutters or chips to cover the numbers and that can be reused from one (1) game to another. (4-2-08)

356. Separate Bank Account. A bank account established for purposes of complying with the accounting requirements of Section 67-7709(1), Idaho Code, regarding accounting for revenues and disbursements for bingo operations. All gross revenues received in connection with licensed bingo games must be placed in the separate bank account. Concessions and other moneys received (if any) from non-gaming revenues should not be deposited in the separate bank account. (4-2-08)

367. Session. A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization. See Sections 67-7702(15) and 67-7708, Idaho Code. (4-2-08)

378. Site System. ~~Computer hardware, software and peripheral equipment used by a licensed bingo operator to provide electronic bingo cards, to monitor bingo cards, to provide receipts, or to generate reports, as defined~~ See definition in Section 67-7702(16), Idaho Code. (4-2-08)(____)

389. Special Committee. Persons (including officers and directors, if so designated) listed on an organization's application for a license who are designated to be responsible for insuring that a bingo game or bingo session conducted by that organization will be run according to the requirements of statute and of these rules. If no persons are designated as a special committee, the members of the governing body of the applicant will be held responsible for the operations of the bingo games and sessions or the operations of the raffle. See Section 67-7711(3), Idaho Code. (4-2-08)

3940. Special Permit. A permit that can be obtained by an unlicensed charitable organization that qualifies the organization to operate an exempt bingo operation. This permit allows a qualified organization to operate bingo games at a state or county fair for the duration of the fair. See Section 67-7702(17), Idaho Code. (4-2-08)

401. Tracking. The documentation of sales by sequentially numbered bingo paper or numbered tickets in raffles. See Section 67-7709(3), Idaho Code. (4-2-08)

442. U-Pick Ems. A game where players select their own numbers on a two (2) part duplicated bingo card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The winner is determined by the first player to cover the numbers on a "U-Pick-Em" card. (4-2-08)

423. Vendor. ~~Any applicant, licensee, manufacturer, distributor, or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or non-disposable cards and any and all related gaming equipment~~ See definition in Section 67-7702, Idaho Code. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

101. NUMBER OF SESSIONS PER WEEK (RULE 101).

Licensed operators of bingo games are limited to a maximum of three (3) bingo sessions per any calendar week (Sunday-Saturday). None of these sessions may exceed eight (8) consecutive hours in any one (1) day. See Section 67-7708, Idaho Code. A session is determined by the start and end sale of paper for a continuous series of bingo games offered for a predetermined period of time. ~~See Section 67-7708, Idaho Code.~~ For special sessions it is permissible to extend the hours past midnight, but all hours past midnight and before up to 2 a.m. on the following day will count as hours for the day during which the session started, ~~which may not exceed a total of eight (8) hours.~~
(7-1-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

116. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS (RULE 116).

All payments for expenses and donations for charitable purposes must be paid by check from the Separate Bank Account and recorded in the bingo operation's general ledger. See Sections ~~67-7709(1)(a) through (e)~~, Idaho Code.
(4-2-08)(____)

117. MINIMUM CHARITABLE OR NONPROFIT DONATION (RULE 117).

A minimum of twenty percent (20%) of annual gross revenues of a bingo operation must be paid to a charitable or nonprofit organization to be used for charitable purposes. The licensed bingo operation must maintain records showing the charitable activities to which the proceeds are applied. See Section ~~67-7709(1)(d)~~, Idaho Code. Organizations are permitted and encouraged to donate more than twenty percent (20%) of their gross revenues from bingo operations to charitable or nonprofit organizations to be used for charitable purposes. No part of this twenty percent (20%) can be used, whether directly or indirectly, for any bingo expense.
(4-2-08)(____)

(BREAK IN CONTINUITY OF SECTIONS)

122. GENERAL LEDGER (RULE 122).

01. Establishment of General Ledger. A general ledger must be established to account separately for the bingo operation. Ledgers must track all transactions for the funds generated from bingo. (3-30-01)

02. Documentation. The accounting of revenues from sales of bingo cards or other entry fees and all disbursements must be documented. The accounting should include, but not be limited to, total prize payouts per session, and bingo related expenses per session, charitable contributions per session, wages, date and purpose or payee for each entry. (7-1-97)

03. Annual Report. Copies of general ledgers must accompany the Annual Bingo Report filed with the Lottery. Copies of the Charitable Contribution Acknowledgement Report Forms and Charitable Donation Reporting Form shall also accompany the Annual Bingo Report. All disbursements shall be recorded in the general ledger. (3-30-01)(____)

04. Retention of Records. An accounting of all gross revenues and disbursements required by statute and these rules must be retained in permanent records with the organization, including the date and amount of each transaction, as well as the name and address of each payee for all prize payments exceeding one hundred dollars (\$100). A copy of each CCARF and the Charitable Donation Reporting Form shall be retained in permanent records of the organization. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

202. OWNERSHIP OF PRIZES (RULE 202).

Organizations must be able to substantiate ownership of all prizes or other legally enforceable rights to obtain the

prizes to be offered in a raffle prior to advertising or selling tickets for such prizes. Proof of ownership of prizes or other legally enforceable rights to obtain prizes must be provided to the Lottery upon request. ()

2023. MAXIMUM PRIZES (RULE 2023).

The maximum aggregate value of cash prizes that may be offered or paid for any single raffle event, which is not a duck race or a holiday Christmas tree fundraiser, is one thousand dollars (\$1,000). There is no limit on the maximum value of merchandise that may be offered as raffle prizes if the merchandise is not redeemable for cash. There is no limit on the maximum amount of the aggregate cash prizes for a duck race if the cash prize is underwritten by insurance, otherwise the maximum aggregate cash prize for a duck race is one thousand dollars (\$1,000). There is no limit on the maximum value of a tree that may be raffled in a holiday Christmas tree fundraiser. There is no limit on the maximum value for the merchandise used as prizes for a duck race or a holiday Christmas tree fundraiser if the merchandise is not redeemable for cash. See Section 67-7710(2), Idaho Code. (4-2-08)

2034. REQUIREMENTS FOR DONATION TO CHARITY -- LIMITATION ON EXPENSES (RULE 2034).

At least ninety percent (90%) of the net proceeds from sales of raffle tickets or chances and duck races must be donated to a charitable or nonprofit organization to be used for a charitable purpose. (Net proceeds are defined in Subsection 010.29 of these rules.) The name and address of the charitable or nonprofit organizations awarded these funds must be listed on the annual raffle report submitted to the Lottery. The annual raffle report must also include the charitable purpose for which the charitable donation was used by the charitable organization or non-profit organization. A maximum of ten percent (10%) of net proceeds is allowed for expenses. See Section 67-7710(3), Idaho Code. (4-2-08)

2045. GENERAL LEDGER AND RECORDKEEPING (RULE 2045).

Every organization conducting a raffle event must establish a general ledger for the raffle. The organization must keep records that show the total number of tickets or chances sold, the revenues from tickets or chances sold, the expenses of conducting the raffle, and the prizes for each raffle. (7-1-97)

2056. ANNUAL RAFFLE REPORT (RULE 2056).

Every licensed organization conducting a raffle shall prepare an annual raffle report and Charitable Donation Report ~~shall file the annual raffle and submit both~~ reports with to the Lottery within thirty (30) days after the close of its license year. See Section 67-7710(5), Idaho Code. ~~Further information required by the forms prescribed by the Lottery pursuant to statute and rule.~~ (7-1-97)()

2067. INDEPENDENT AUDIT OF LARGE RAFFLES (RULE 2067).

Every charitable or non-profit organization whose gross annual revenues exceed two hundred thousand dollars (\$200,000) from the operation of raffles shall provide the Commission with a copy of an annual report of raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the organizations license year. (3-30-01)

2078. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

302. INFORMATION TO BE PROVIDED IN APPLICATION (RULE 302).

01. Background Check of Applicants. The application for an initial license and for a renewal license to operate a bingo game or to conduct a raffle will be reviewed and relevant background investigations will be conducted on all persons listed on the application as officers, directors or members of the special committee. The members of the governing board will be considered the de facto special committee if the governing board has not designated a special committee in its application. See Section 67-7711(3), Idaho Code. The signature from the organization's representative on the application gives the Lottery authority to conduct investigations of members of the special committee. The persons listed on the application must be officers or directors of the organization or members of the special committee applying for a license. (4-2-08)

02. Proper Identification. The application must list the name, address, date of birth, driver's license number and social security or tax identification number of the applicant, if applicable. If the applicant is a corporation, association or similar legal entity, the application must also list the full name, current home address and phone number, date of birth, social security number, driver's license number and state of issuance, of each listed officer, director or member of the special committee in order to conduct background investigations. See Section 67-7711(2)(a) and (b), Idaho Code. (4-2-08)

03. Charitable Organizations. The application of a charitable organization must include a copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service ~~and the Idaho Tax Commission~~ that indicates that the organization is a charitable organization and that states the section of the tax code under which the exemption is granted, except that if the organization is a state or local branch, lodge, post of chapter or a national organization, a copy of the determination letter of the national organization will satisfy this requirement. See Section 67-7711(2)(c)(i), Idaho Code. The applicant must also provide verifiable documentation to prove charitable function, purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (4-2-08)()

04. Incorporated Nonprofit Organizations. The application of an incorporated nonprofit organization must include a copy of the certificate of existence issued by the secretary of state pursuant to Title 30, Chapter 3, Idaho Code, establishing the organization's good corporate standing in the state. See Section 67-7711(2)(c)(ii), Idaho Code. The applicant must also provide verifiable documentation to prove charitable function, purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (4-2-08)()

~~**05. Unincorporated Nonprofit Associations.** The application of an unincorporated nonprofit association operating pursuant to Title 53, Chapter 7, Idaho Code, must include a statement meeting the requirements of Section 53-710, Idaho Code, for appointing an agent for service of process. See Section 67-7711(2)(c)(iii), Idaho Code. (7-1-97)~~

065. Locations. The application must list the location or locations at which the applicant will conduct bingo games or bingo sessions or drawings for raffles. See Section 67-7711(2)(d), Idaho Code. (7-1-97)

076. License Year and Fiscal Year. An organization may apply for a license to coincide with the organization's fiscal year. See Section 67-7711(5), Idaho Code. (4-2-08)

087. Failure to Provide Information. Failure to provide all information required for an application may result in a delay in considering an application or denial or dismissal of an application for a bingo/raffle license. See Section 67-7711(1), Idaho Code. (4-2-08)

303. LIMITATION OF INVOLVEMENT BY FOR-PROFIT BUSINESSES (RULE 303).

A for-profit business, other for-profit entity, its owners or persons employed by a for-profit business or other for-profit entity cannot operate or manage the charitable gaming activities on behalf of a charitable organization or nonprofit organization. ()

3034. MULTIPLE CHAPTERS LICENSED TOGETHER (RULE 3034).

Different chapters of an organization may apply for and share one (1) raffle license so long as the information required in Subsections 302.01 through 302.06 of these rules is provided to the Lottery before the issuance of the license. See Section 67-7711(4), Idaho Code. When two (2) or more chapters share a license, in aggregate they are subject to the limitations of a single organization with a license; multiple chapters sharing a license are not entitled to multiples of the event or prize limits for a license. (7-1-97)

~~**304. COMPENSATION OF CERTAIN PERSONS AND CONTRACTS WITH CERTAIN PERSONS PROHIBITED (RULE 304).**~~

~~*Persons listed on the application as officers or directors and their relatives and members of their household are prohibited from being compensated for their participation in the organizations bingo operation. No organization shall contract with any person not employed by, or a volunteer for, the organization for the purpose of conducting a bingo game or raffle on the organizations behalf. See Section 67-7711(3), Idaho Code. (7-1-97)*~~

305. ACTION ON LICENSES (RULE 305).

01. Applications for Licenses. An application for a license will be approved, denied or dismissed in writing within fifteen (15) days of receipt of the written application and all other required documentation, except as provided in Section 67-7712(2)(j), Idaho Code, when a criminal prosecution of an applicant is pending or an appeal from a criminal prosecution of an applicant is pending. The application will be denied if the applicant does not meet the requirements of statute and of these rules. If an application is not received ~~fifteen~~ thirty (~~15~~30) days in advance of a proposed event, it is possible that a license may not be granted before the event, and the event will not be allowed to proceed without a license. See Section 67-7711(1), Idaho Code. (4-2-08)()

02. Issuance of Licenses. A license will be issued when an application for a license is approved. A license expires one (1) year after its issuance. See Section 67-7711(1), Idaho Code. (4-2-08)

03. Notice of Intended Actions. If the Lottery intends to deny an application for a license or the renewal of a license or intends to revoke, cancel, rescind or suspend a license, it will provide fifteen (15) days' written notice to the applicant or to the licensee of the Lottery's intent to deny, revoke, cancel, rescind or suspend the license and of the general basis for its intended action. If the applicant or licensee does not agree to the Lottery's intended action, the applicant or licensee must in writing request a hearing within the fifteen (15) day notice period. If a timely written request for a hearing is made, the hearing will be conducted in the same manner as a contested case hearing under Title 67, Chapter 52, Idaho Code. If a timely written request for a hearing is not made, the intended action is final and not subject to appeal. See Section 67-7712(3), Idaho Code. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

411. PAPER BINGO CARD MANUFACTURERS STANDARDS (RULE 411).

Card manufacturers must follow these standards for paper cards: (4-2-08)

01. Quality of Paper. The paper must be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet and obscuring other numbers or cards. (4-2-08)

02. Random Assignment of Numbers. Numbers printed on the card must be randomly assigned. (4-2-08)

03. Serial Numbers. Each set of cards must be comprised of cards bearing the same serial number. No serial number may be duplicated by a manufacturer in a given year. (4-2-08)

04. Packet Assembly. Cards assembled in books or packets must be glued, not stapled. (4-2-08)

05. Labeling. A label must be placed on the exterior of each carton of bingo paper listing the type of product, number of packets or loose sheets, serial numbers, per (series) numbers, number of cases, cut of paper, and color of paper. (4-2-08)

06. Packing Slips. A packing slip inside each case must list the same information as listed on the label. (4-2-08)

07. Invoice. All orders must be accompanied by an invoice which lists the type of product, number of packets or loose sheets, serial numbers of all packets or loose sheets, per (series) numbers, number of cases, cut of paper, color of paper and pricing by item. The invoice must also include the supplier (vendor) name, and the name and address of the organization purchasing the paper. ()

IDAPA 52 - IDAHO STATE LOTTERY

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-7408(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2008.

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

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

The proposed rule changes are necessary housekeeping measures to maintain and ensure consistency between the rules and Idaho Lottery operational and business practices and to eliminate unnecessary rules which simply restate what is already set forth in the applicable statute. Rule changes include amendment to certain rules to eliminate reference to requirements that are contrary to longstanding Idaho Lottery operational and business practices and elimination of certain rules that simply restate and/or conflict with applicable law. Rule changes include:

1. Addition of a new subsection clarifying longstanding methods of selling lottery tickets;
2. Eliminating reference to requirements that on-line game drawings be videotaped;
3. An independent certified public accountant witness on-line game drawings; and
4. Eliminating requirements that equipment used in such drawings be inspected by a certified public accountant.

Further, the Lottery seeks to delete unnecessary rules that simply restate what Section 67-7414, Idaho Code already mandates.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeff Anderson, Director, (208) 334-2600.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2008.

DATED this 29th day of July, 2008.

Jeff Anderson, Director
Idaho State Lottery
1199 Shoreline Ln., Ste. 100
Boise, ID 83702
Phone: (208) 334-2600
Fax: (208) 334-2610

THE FOLLOWING IS THE TEXT OF DOCKET NO. 52-0103-0801

100. GENERAL PROVISIONS (RULE 100).

01. Purpose. These rules are established by the Commission to define and regulate the operation and administration of the Lottery and the Commission. (3-26-08)

02. Lottery Commission. The Commission is charged with the authority and duty to regulate Lottery activities in the state of Idaho, consistent with the Idaho Constitution and the enabling legislation. The headquarters of the Commission and of the Lottery is in Boise. (3-26-08)

03. Powers and Duties of the Commission. (3-26-08)

a. Rule Promulgation. The Commission promulgates rules and conditions under which the statewide Lottery will be conducted. Subjects covered in such rules include but need not be limited to: (3-26-08)

i. The types of Lottery games to be conducted; (3-26-08)

ii. The prices of tickets in the Lottery; (3-26-08)

iii. In general the numbers and sizes of prize disbursements, the manner and frequency of prize drawings, and the manner in which payment will be made to holders of winning tickets; (3-26-08)

iv. The locations at which Lottery tickets may be sold, the manner in which they are to be sold, and contracting with Lottery vendors, retailers and contractors; (3-26-08)

v. The manner in which Lottery sales revenues are to be collected; (3-26-08)

vi. The amount of compensation to be paid to retailers; (3-26-08)

vii. Other areas relating to the efficient and economical operation and administration of a statewide Lottery consonant with the public interest. (3-26-08)

b. Delegation to Director. In addition to those duties assigned to the Director in the Act, the Commission may, insofar as is consistent with the Idaho Constitution and the Act, delegate the performance of executive or administrative functions to the Director. (3-26-08)

04. Time and Place of Meetings. (3-26-08)

a. Regular meetings of the Commission must be held at least quarterly; the date, time, and place will be set by the Commission and, if possible, with at least two (2) weeks' advance notice. The Commission may meet with the Director to make recommendations and set policy, to approve or reject reports of the Director, to adopt rules, and to transact other business. (3-26-08)

b. Additional meetings necessary to discharge the business of the Commission may be called from time to time by the chairman or by a quorum of the Commission. (3-26-08)

05. Open Meeting Law. All meetings of the Commission shall be held in accordance with Idaho's Open Meeting Law, Sections 67-2340, et seq., Idaho Code, and in accordance with Section 67-7442, Idaho Code. All meetings of the Commission are open to the public, except when executive session is allowed for part of the meeting under the Open Meeting Law. (3-26-08)

06. Director. The Director is responsible for the operation of the Lottery and for managing the affairs of the Commission. A Deputy Director designated by the Director may act for the Director in the absence of the Director. If there is a vacancy in the office of Director, the Commission will designate the Deputy Director as Interim

Director until the vacancy can be filled. (3-26-08)

07. Powers and Duties of the Director. (3-26-08)

a. The Director has the authority to implement and execute procedures that he may deem appropriate for the efficient administration of the Lottery. The Director may also recommend rules governing the establishment, administration, and operation of the Lottery to the Commission for its approval; (3-26-08)

b. The Director is authorized to employ sufficient staff as may be required to carry out the functions of the Commission and the Lottery; (3-26-08)

c. The Director may contract with retailers for the sale of Lottery games and must suspend or terminate any contract in accordance with the provisions of the Act and the rules of the Commission; (3-26-08)

d. The Director must continuously study and investigate all matters pertinent to the efficient operation of the Lottery; and (3-26-08)

e. The Director must maintain full and complete records of the operation of the Lottery. The Director must report on at least a monthly basis to the Commission and to the governor on the status of the Lottery. (3-26-08)

f. The duties and responsibilities of the Director that are not otherwise specified in Idaho law or the rules adopted by the Commission may be maintained as a policy of the Commission for the purpose of establishing a working relationship between the Director and the Commission. (3-26-08)

08. Lottery Offices. (3-26-08)

a. The principal office of the Lottery is located at 1199 Shoreline Lane, Suite 100, Boise, Idaho 83702. (3-26-08)

b. The Lottery may also operate other offices and facilities throughout the state as are appropriate to fulfill its responsibilities under law. (3-26-08)

09. Lottery Budgets and Financial Statements. The Director must: (3-26-08)

a. Submit quarterly financial statements to the Commission, the governor, the state treasurer, and the legislature. The quarterly financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The quarterly financial statements must be provided within forty-five (45) days of the last day of each quarter. (3-26-08)

b. Submit annual financial statements to the Commission, the governor, the state treasurer, and each member of the legislature. The annual financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The annual financial statements must be examined by the state controller or a firm of independent certified public accountants in accordance with generally accepted auditing standards and must be provided within ninety (90) days of the last day of the Lottery's fiscal year. (3-26-08)

10. Contingency Reserve. (3-26-08)

a. The Director may, with the approval of the Commission, allot from moneys available to pay administrative expenses an amount to be transferred to a contingency reserve established by the Commission. The money allotted can include amounts retained to fund specific future expenses or can be undesignated as to purpose. (3-26-08)

b. When the Commission approves a contingency reserve, it must determine the amount necessary for a reasonable contingency reserve. (3-26-08)

c. Upon approval of the Commission, money in the contingency reserve may be authorized to be used for specific purposes of the Lottery or to be used to fund general administrative expenses if there is a revenue shortfall. Expenses funded from the contingency reserve cannot be included with other administrative expenses for purposes of determining compliance with current administrative expenditure limitations. (3-26-08)

11. Special Drawings. (3-26-08)

a. The Director may authorize special drawings to award prizes, such as vacation trips, automobiles, or other tangible items in addition to, or in lieu of, cash awards. The Director will determine the nature and number of awards for each special drawing. Special drawings for promotional awards may be held independently of the Lottery's regular prize drawings or may be incorporated therein. The promotional drawings may be cosponsored and conducted in conjunction with Lottery retailers or other independent businesses. In view of the temporary nature and indeterminate frequency of the promotional awards drawings, a press announcement and normal advertising media will be used to inform the public of the rules and prizes for each special drawing. (3-26-08)

b. Notwithstanding the provisions of Paragraph 100.11.a. of this rule, the Director may, at his discretion, award in-lieu equivalent cash awards to the winners of tangible items, in those instances where the Director deems it appropriate. The value of noncash items must be estimated by using either the cost of the item or its fair-market value. (3-26-08)

12. Retail Drawings. The Director and his designee may authorize retailers to conduct drawings using non-winning Lottery tickets in conjunction with a particular Lottery game. Such authorization must be in writing, must specify the type of drawing to be conducted and must set forth the methodology to be used in conducting the drawing. (3-26-08)

13. Retail Ticket Price Discounts. (3-26-08)

a. Notwithstanding the price adopted for the retail sale of a ticket in the rules for a specific Lottery game, the Commission may offer discounts for the retail sale of Lottery tickets. (3-26-08)

i. Discounts for the retail sale of Lottery tickets may be offered to the public through the use of coupons approved by the Director or by any other method approved by the Director. (3-26-08)

ii. Coupons that offer a discount on the retail price of Lottery tickets must be distributed using methods designed to reach the public. These methods may include, but are not limited to, the use of direct mail, newspaper advertising, or by having coupons available at Lottery offices and retailer locations. (3-26-08)

b. Rules for a promotion conducted by the Lottery using retail ticket discounts must be announced by the Director and made available at the Lottery's offices and retailer locations. (3-26-08)

14. Allocation of Revenues for Prizes. (3-26-08)

a. Purpose: The primary objective of the Lottery is to produce the maximum amount of net revenues to benefit the public purpose of raising revenue consonant with the dignity of the state and the sensibilities of its citizens. In accomplishing this objective, at least forty-five percent (45%) of the total annual revenues shall be returned in the form of prizes. The Lottery may design and conduct games that return more than forty-five percent (45%) of the revenues received from the sale of tickets in the form of prizes as an incentive to increase the total amount of game sales over the level of sales that otherwise would have been reasonably expected using a lower prize percentage. Games may also be authorized that return less than forty-five percent (45%) of that game's revenues so long as forty-five percent (45%) of the total annual revenues is returned as prizes. (3-26-08)

b. Prize payments: In addition to cash prize payments, money set aside by the Lottery and restricted for the payment of prizes is considered in satisfying the requirement of returning at least forty-five percent (45%) of total revenues to the public in the form of prizes. (3-26-08)

c. Averaging game prize payments: Notwithstanding the prize structure adopted for a Lottery game, the amount of revenue returned for prizes among all the games offered by the Lottery may be reallocated so long as at

least forty-five percent (45%) of the total revenue earned from all games is returned to the public in the form of prizes on an annual basis. The Director must report to the Commission on any reallocations made pursuant to Section 100 of these rules. (3-26-08)

15. Ownership of Lottery Tickets. (3-26-08)

a. Except for tickets claimed jointly in accordance with the provisions of Paragraph 100.15.d. of this rule, until a name is printed or placed upon a Lottery ticket in the area designated for "name," the ticket is owned by the bearer of the ticket. When a name is placed on the ticket in the place designated for a name, the person whose name appears in that area is the owner of the ticket and is entitled to any prize attributable to the ticket. (3-26-08)

b. If more than one (1) name appears on a ticket, the ticket must be claimed in accordance with the joint ownership procedures listed in Paragraph 100.15.d. of this rule. (3-26-08)

c. Groups, family units, clubs, or other organizations may claim a winning ticket if the organization possesses a Federal Employer Identification Number (FEIN) issued by the Internal Revenue Service and that number is shown on the claim form. (3-26-08)

d. If a ticket is claimed to be owned by two (2) or more people, the following steps will be taken for payment of the prize: (3-26-08)

i. All people claiming ownership must complete and sign a request and release form. (3-26-08)

ii. At least one (1) of the people claiming ownership of the ticket must sign the ticket; that person's signature must also appear on the request and release form. (3-26-08)

iii. The Lottery reserves the right to issue a single prize check instead of multiple prize checks to the owners of a ticket if the value of each individual prize check would be less than fifty dollars (\$50). (3-26-08)

iv. Multiple winners of a Lottery prize will be paid only through the Boise Lottery office. Lottery retailers will not be required to pay more than one (1) winner of a single prize. (3-26-08)

16. Claims. (3-26-08)

a. Liability. By submitting a claim, the player agrees that the state, the Commission, the Lottery and all officials, officers, and employees of each are discharged from all further liability upon payment of the prize. (3-26-08)

b. Publicity. By submitting a claim, the player also agrees that the Lottery may use the prize winner's name and photograph for publicity purposes. (3-26-08)

c. Claim period. Prizes may be claimed for a period of one hundred eighty (180) days after the drawing in which the prize was won or from the last day tickets from the specific instant game were sold. Prizes won through an electronic terminal are payable in accordance with the Lottery's rules. If a claim is not made for the prize within the applicable period, the prize money will be added to future prize pools, to be used in addition to prize allotments already allocated, except as provided in Section 67-7433, Idaho Code. (3-26-08)

d. Invalid tickets. If a ticket presented to the Lottery is invalid pursuant to the terms of these rules or the specific game rules, the ticket is not entitled to prize payment. (3-26-08)

e. Ticket a bearer instrument. A ticket is a bearer instrument until signed in the space designated on the ticket for signature, if a signature space is provided. The person who signs the ticket is considered the owner of the ticket after signing it. Payment of any prize may be made to a person in possession of an unsigned ticket or to the person whose signature appears on the ticket. All liability of the state, the Commission, the Lottery, the Director, and Lottery employees terminates upon payment. (3-26-08)

f. Time of prize payment. All prizes will be paid within a reasonable time after a claim is verified by

the Lottery and a winner is determined. The date of the first installment payment of any prize to be paid in installment payments is the date the claim is validated and processed, unless a different date is specified for a particular game in these rules or in the specific game rules. Later installment payments will be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The Lottery may, at any time, delay any prize payment in order to review a change in circumstances concerning the prize awarded, the payee, or the claim. (3-26-08)

g. Prizes payable for winner's life. If any prize is for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner is deemed to be twenty (20) years. (3-26-08)

17. Prizes Payable After Death of Winner. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

18. Disability of Prize Winner. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, minority, mental deficiency, or physical or mental incapacity. (3-26-08)

19. Stolen or Lost Tickets. The Lottery has no responsibility for paying prizes attributable to stolen or lost tickets. (3-26-08)

20. Effect of Game Rules. In purchasing a ticket the player agrees to comply with Title 67, Chapter 74, Idaho Code, these rules, the specific game rules, Lottery instructions and procedures, and the final decisions of the Lottery. The Lottery's decisions and judgments in respect to the determination of winning tickets or any other dispute arising from the payment or awarding of prizes will be final and binding upon all participants in the Lottery. If a dispute between the Lottery and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the Lottery may, solely at the Director's option, replace the ticket with an unplayed ticket of an equivalent price from any game or refund the price of the ticket. This will be the sole and exclusive remedy of the player. (3-26-08)

21. Disputed Prizes. If there is a dispute, or it appears that there may a dispute concerning payment or ownership of any prize or any other legal issue involving the prize, the Lottery may refrain from making payment of the prize pending a final determination by the Lottery or by a court of competent jurisdiction as to the proper payment of the prize. (3-26-08)

22. Sale of Lottery Tickets. Lottery tickets may be sold for cash, check, money order, credit card, electronic funds transfer, or debit card. ()

(BREAK IN CONTINUITY OF SECTIONS)

202. GENERAL INSTANT TICKET GAME OPERATING RULES (RULE 202).

01. Instant Games -- Authorized -- Director's Authority. The Commission hereby authorizes instant games that meet the criteria set forth in these rules. The Director is hereby authorized to select, operate, and contract relating to and for the operation of instant games that meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Section 202 of these rules, these terms have the following definitions:

- (3-26-08)
- a. Instant Ticket Validation Bar Code. The bar code that enables retailers to validate instant tickets. (3-26-08)
 - b. ITA System. The Instant Ticket Automation system that validates winning instant tickets. (3-26-08)
 - c. Pack. A package of instant game tickets with a designated number of tickets that may be (but do not have to be) fanfolded and attached to each other by perforations, which perforations the retailer tears when selling a ticket, and that are packaged in plastic shrink-wrapping, foil or some similar outer wrapping material. (3-26-08)
 - d. Pack-Ticket Number. The number printed on the ticket. A game identification number must be included in the book-ticket number. (3-26-08)
 - e. Play Symbol Caption. The small printed material appearing below each play symbol which repeats or explains the play symbol. One (1) and only one (1) play symbol captions appears under each play symbol. (3-26-08)
 - f. Play Symbols. Figures printed in approved ink that appear under each of the rub-off spots on the front of the ticket. (3-26-08)
 - g. Retailer Validation Code. The small letters found under the removable rub-off covering over the play symbols on the front of the ticket, which the ticket retailer uses to verify winners of twenty-five dollars (\$25) or less. The letters appear in varying locations beneath the removable rub-off covering and among the play symbols. (3-26-08)
 - h. Ticket. An Idaho instant game ticket. (3-26-08)
 - i. Ticket Validation Number. The unique number on the front of the ticket. (3-26-08)
- 03. Sale of Tickets.** (3-26-08)
- a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell Lottery tickets, except that nothing in this section shall be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. (3-26-08)
 - b. Unless authorized by the Lottery, tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-26-08)
 - c. Nothing in this section shall be construed to prohibit the Commission from designating certain of its agents and employees to sell Lottery tickets directly to the public. (3-26-08)
- ~~**04. Retailer Compensation.** (3-26-08)~~
- ~~a. The compensation paid to Lottery retailers will be five percent (5%) of the retail price of the tickets or shares. (3-26-08)~~
 - ~~b. The Director may pay instant ticket retailers a commission of up to one percent (1%) of the tickets sold by the retailer as a bonus to the retailer. The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for a Lottery game. (3-26-08)~~
- 054. Instant Games Ticket Price.** The price of an instant game ticket will be set by the Director. No person may sell a ticket at a price other than that established in accordance with these rules. (3-26-08)
- 065. Prize Structures.** The Director will provide to all Lottery game retailers a detailed tabulation of the

estimated number of prizes of each particular prize denomination that are expected to be awarded in each Lottery game and a close approximation of the odds of winning the prizes. (3-26-08)

076. Number and Value of Instant Ticket Prizes. Lottery game prize structures, odds of winning, number of tickets, number and value of prizes, play symbol and captions used for validation will not be adopted by administrative rules. Rather, the Director will submit proposed games to the Commission, who must approve each game's general format before the initiation of each game. All instant games must be conducted in accordance with the rules of the Commission. (3-26-08)

087. Official Start of Game. (3-26-08)

a. Games with a prize structure adopted by the Commission pursuant to Subsection 202.07 of this rule may be started at a time selected by the Director. The Director will publicly announce the starting date of a new game by use of a press release or any other appropriate means. The Director may also issue game information that includes a description of the game, odds of winning a prize, the number and value of prizes, and the play symbols and captions used for prize validation. (3-26-08)

b. Games using a prize structure other than a prize structure previously approved by the Commission must be approved by the Commission before game tickets can be sold to the public. (3-26-08)

098. Determination of Winners. (3-26-08)

a. Winners of an instant game are determined by the matching or specified alignment of the play symbols on the tickets. The play symbols are revealed by scratching or rubbing off the latex or similar secure material that covers spots on the ticket. The ticket bearer must notify the retailer or the Lottery of the win and submit the winning ticket to the retailer or the Lottery as provided in these rules. The winning ticket must be validated by the Lottery through use of the validation number or by any other means specified by the Director. (3-26-08)

b. Unless otherwise provided by game rules, only the highest instant prize amount will be paid on a given ticket. (3-26-08)

c. No portion of the play symbol captions, retailer validation codes, display printing nor any extraneous matter whatever will be usable or playable as a part of the instant game. (3-26-08)

d. The ticket validation number or any portion thereof is not a play spot and is not usable or playable as such. (3-26-08)

e. In all Lottery games, the determination of prize winners is subject to the general ticket validation requirements set forth in Subsection 200.14, et seq., and Subsection 202.11 of this rule, and the requirements set out on the back of each instant game ticket. (3-26-08)

f. The length of operation of an instant game will be determined by the Director. The start date and closing date of the instant game will be publicly announced. (3-26-08)

409. Payment of Prizes. The procedures for claiming instant ticket prizes are as follows: (3-26-08)

a. Instant ticket prizes of less than six hundred dollars (\$600) may be claimed by one (1) of the following methods: (3-26-08)

i. The claimant may present the winning ticket to any Lottery retailer. The retailer must verify the claim and, if acceptable, make payment of the amount due the claimant. A retailer may pay prizes in cash or by business check, or money order, or any combination thereof. A retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of the retailer's contract. (3-26-08)

ii. If the retailer cannot verify the claim, the claimant must fill out a claim form, which the retailer must present the completed form and the disputed ticket to the Director. If the claim is validated by the Director, a check will be forwarded to the claimant in payment of the amount due. If the claim is not validated by the Director,

the claim will be denied and the claimant shall be promptly notified. (3-26-08)

iii. The claimant may bring the ticket to the Boise Lottery office or complete a claim form and mail it with the ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). Claim forms may be obtained from any Lottery game retailer or from the Lottery at the following address: 1199 Shoreline Lane, Suite 100, Boise, Idaho 83702. (3-26-08)

b. To claim an instant prize of six hundred dollars (\$600) or more, the claimant must either bring the winning ticket to the Boise Lottery office or complete a claim form and mail the completed form together with the winning ticket to the Idaho State Lottery, P.O. Box 6537, Boise, Idaho 83707-6537 (registered mail recommended). (3-26-08)

c. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery office. Upon validation by the Director, a check will be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. (3-26-08)

d. Any ticket not passing all the validation checks is void and ineligible for any prize and will not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or ticket of equivalent sales price from any other current game). If a defective ticket is purchased, the only responsibility or liability of the Lottery is the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sale price from any other current game). (3-26-08)

e. All prizes must be paid within a reasonable time after they are awarded and after the claims are verified by the Director. For each prize requiring annual payments, all payments after the first payment will be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances concerning the prize awarded, the payee, the claim, or any other matter that may have come to his attention. All delayed payments will be brought up to date immediately upon the Director's confirmation and continue to be paid on each original anniversary date thereafter. (3-26-08)

140. Ticket Validation Requirements. In addition to meeting all of the other requirements in these rules or as may be printed on the back of each instant game ticket, the following validation requirements apply with regard to instant game tickets: (3-26-08)

a. To be a valid instant game ticket, all of the following requirements must be met: (3-26-08)

i. The ticket must have been issued by the Director in an authorized manner. (3-26-08)

ii. The ticket must not be altered, unreadable, or tampered with in any manner. (3-26-08)

iii. The ticket must not be counterfeit in whole or in part. (3-26-08)

iv. The ticket must not be stolen nor appear on any list of omitted tickets on file with the Lottery. (3-26-08)

v. The ticket must be complete and not blank (or partially blank), miscut, misregistered, defective, or printed or produced in error. (3-26-08)

vi. Under the opaque covered play area, the ticket must have play symbols and the correct corresponding captions, exactly one (1) pack-ticket number, exactly one (1) agent verification code, and exactly one (1) validation number as required by each approved set of game rules, all of which must be present in their entirety, legible, right-side up, and not reversed in any manner. (3-26-08)

vii. The validation number of an apparent winning ticket must appear on the Lottery's official list of validation numbers of winning tickets; and a ticket with that validation number cannot have been previously paid. (3-26-08)

viii. The ticket must pass all additional confidential validation requirements established by the Director. (3-26-08)

ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. (3-26-08)

b. Any ticket not passing all the validation checks in Paragraph 202.11.a. of this rule is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price) from any other current Lottery game. If a defective ticket is purchased, the only responsibility or liability of the Lottery will be the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sales price from any other current Lottery game). (3-26-08)

c. The Director may authorize reconstruction of an alleged winning ticket that was not received or cannot be located by the Lottery, provided, the person requesting reconstruction must submit to the Lottery sufficient evidence to enable reconstruction and must submit a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements of Paragraph 202.11.a. of this rule and any specific validation requirements contained in the rules for its specific game, the Director may authorize payment of the prize. Provided, the ticket will not be validated nor the prize paid before the one hundred eighty-first (181) day following the official end of that instant game. A ticket(s) validated pursuant to this Subsection will not entitle the claimant to be entered into the grand prize drawing, if any, for that or any subsequent instant game. (3-26-08)

121. Prize Rights Unassignable. No person's right to a prize already drawn is assignable, except that payment of any prize already drawn may be paid to the estate of a deceased prize winner, and a person other than the prize winner may be paid the prize to which the winner is entitled as provided by court order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

132. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho law. For purposes of this Subsection, the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. (3-26-08)

143. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, minority, mental deficiency, or physical or mental incapacity. (3-26-08)

154. Governing Law. In purchasing a ticket, the customer agrees to comply with, and abide by, Idaho law, and all rules and final decisions of the Lottery, and all procedures and instructions established by the Lottery or the Director for the conduct of the game. (3-26-08)

165. Discharge of All Liability Upon Payment. The state of Idaho, its agents, officers, employees, and representatives, the Lottery, its Director, agents, officers, employees and representatives, will be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in

accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes are final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

176. Unclaimed Prize Money. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery Account. (3-26-08)

187. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)

198. Confidentiality of Tickets. All retailers and their employees and agents are prohibited from attempting to ascertain the numbers or symbols appearing in the designated areas under the removable latex or similar secure coverings or otherwise attempting to identify winning tickets. (3-26-08)

2019. Official End of Game. (3-26-08)

a. The official end of an instant game will be announced by the Lottery. Prizes may be claimed up to one hundred eighty (180) days after the official end of the game. If the final day of the claim period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. A player may submit a winning ticket claim for prize payment up to one hundred eighty (180) days after the official end of the game. Depending on the prize amount, the ticket should be submitted to the location specified in Subsection 202.10 of this rule, "Payment of Prizes." To participate in one (1) of the Lottery's special drawings, if any, a player must redeem a ticket that qualifies for entry into that special drawing within the time limits specified by the Director. (3-26-08)

b. A retailer must return to the Lottery all unsold Lottery tickets for each game within ninety (90) days of the official end of that game in order to receive credit from the Lottery as provided in retailer's contract. The Lottery has no obligation to grant credit for tickets returned after the time limit specified in the contract. (3-26-08)

(BREAK IN CONTINUITY OF SECTIONS)

204. ON-LINE COMPUTER GAMES (RULE 204).

01. On-Line Games -- Authorized -- Director's Authority. The Commission hereby authorizes the Director to select and operate on-line games which meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Rule 204 these terms have the following definitions: (3-26-08)

a. "Drawing." The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the game. Drawings are open to the public, ~~and are required to be witnessed by an independent certified public accountant.~~ The equipment used in any drawing must be inspected by the ~~independent certified public accountant and the~~ Director of ~~the Lottery~~ Security ~~Division~~ or his designee both before and after the drawing. ~~All drawings and inspections are required to be recorded on both video and audio tape.~~ (3-26-08)(____)

b. “On-line Game.” A Lottery game in which a player selects a combination of numbers or symbols, the type of game and amount of play, and the drawing date by use of a computer. In return for paying the appropriate fee, the player receives a computer-generated ticket with the player’s selection printed on it. Each ticket bearer whose valid ticket includes a winning combination will be entitled to a prize if claim is submitted within the specified time period. (3-26-08)

c. “On-line Retailer.” A person or business authorized by the Lottery to sell on-line tickets. (3-26-08)

d. “On-line Terminal (OLT).” The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated. (3-26-08)

e. “On-line Ticket.” A computer-generated ticket issued by an on-line terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected. (3-26-08)

f. “Ticket Bearer.” The person who has signed the on-line ticket or who has possession of an unsigned ticket. (3-26-08)

g. “Validation.” The process of determining whether an on-line ticket presented for payment is a winning ticket. (3-26-08)

h. “Winning Combination.” One (1) or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing. (3-26-08)

03. Distribution of Tickets. (3-26-08)

a. Tickets will be sold by retailers selected by the Director. (3-26-08)

b. The Director is authorized to arrange for the distribution of OLTs, player-activated terminals (PATs), ticket stock, and supplies to certificated retailers. (3-26-08)

04. Sale of Tickets. (3-26-08)

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell on-line Lottery tickets, except that nothing in this section will be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. (3-26-08)

b. Tickets may not be sold at a location other than the address listed on the retailer’s contract with the Lottery. (3-26-08)

c. Nothing in this section shall be construed to prohibit the Director from designating certain of its agents and employees to sell Lottery tickets directly to the public. (3-26-08)

05. On-Line Games Criteria. (3-26-08)

a. The base price of an on-line ticket will not be less than fifty cents (\$.50), except to the extent of discounts authorized by the Commission. (3-26-08)

b. The price for a ticket in any particular on-line game will be set out in the game rules adopted by the Commission for that game. No person may sell a ticket at a price other than that established in accordance with these rules. On the average, the total of all prizes available to be won in an on-line game shall not be less than forty-five percent (45%) of the on-line game’s projected revenue. (3-26-08)

c. The manner and frequency of drawings may vary with the type of on-line game. (3-26-08)

d. The times, locations, and drawing procedures will be determined by the Director. (3-26-08)

e. A ticket bearer entitled to a prize must submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an on-line retailer through use of the validation number and any other means specified by the Director. (3-26-08)

06. Payment of Prizes. (3-26-08)

a. To claim an on-line game prize of less than six hundred dollars (\$600) the claimant may present the winning on-line ticket to any on-line retailer, or to the Boise Lottery office: (3-26-08)

i. If the claim is presented to an on-line retailer, the on-line retailer must validate the claim and, if determined to be a winning ticket, pay the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

ii. If the claim is presented to the Boise Lottery office, the claimant may be required to complete a claim form and submit it with the winning ticket, either by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

b. To claim an on-line prize of six hundred dollars (\$600) or more, the claimant must obtain and complete a claim form and submit it with the winning ticket to the Boise Lottery office by mail or in person. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery office. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. The amount due will be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

c. All prizes must be claimed within one hundred eighty (180) days from the drawing in which the prize was won. If the final day of the one hundred eighty (180) day period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery account. (3-26-08)

07. Drawings and End of Sales Prior to Drawings. (3-26-08)

a. Drawings will be conducted in a location and at days and times designated by the Director. (3-26-08)

b. For each type of on-line game, the Director will establish a time before the drawing for the end of sales. (3-26-08)

c. The Director will designate a Drawing Manager who will oversee each drawing. The Drawing Manager must attest that the drawing was conducted in accordance with proper drawing procedures at the end of each drawing. (3-26-08)

d. The Director will designate the type of equipment to be used and will establish procedures to randomly select the winning combination for each type of on-line game. Drawing procedures will include provisions for the substitution of backup drawing equipment if the primary drawing equipment malfunctions or fails for any reason. (3-26-08)

e. The equipment used to determine the winning combination will not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment must be tested before and after each drawing to assure proper operation and lack of tampering or fraud. Drawings will not be held until all pre-inspection checks are completed. No prizes will be paid until after all

post-inspection checks have been completed. (3-26-08)

f. All drawings ~~will~~ may be broadcast live on television, provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost. ~~(3-26-08)~~(____)

g. The Director will establish procedures governing the conduct of drawings for each type of on-line game. The procedures must include provisions for deviations that include but are not limited to: (3-26-08)

i. Malfunction of the drawing equipment before determination of the winning combination; (3-26-08)

~~ii. Video or audio malfunctions, or both, during the drawing;~~ ~~(3-26-08)~~

iii. Fouled drawing; (3-26-08)

~~iv.~~ Delayed drawing; and (3-26-08)

iv. Other equipment, facility or personnel difficulties. (3-26-08)

h. If a deviation occurs, the drawing will be completed under the supervision of the Lottery or its designee. ~~The drawing will be videotaped for later broadcast, if broadcast time is available.~~ The winning combination will be provided to the television network for dissemination to the public. ~~(3-26-08)~~(____)

i. If, during any live-broadcast drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a “foul” will be called by the Drawing Manager or the Lottery’s designee. Any number drawn before a “foul” is called will stand and be deemed official after passing inspection and certification by the Drawing Manager or the Lottery’s designee. (3-26-08)

j. The Director must delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment will be made after an investigation is completed and the drawing approved by the Drawing Manager or the Lottery’s designee. If the drawing is not approved, it will be void and another drawing will be conducted to determine the actual winner. (3-26-08)

08. Validation Requirements. (3-26-08)

a. To be a valid winning on-line ticket, all of the following conditions must be met: (3-26-08)

i. All printing on the ticket must be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and the date printed on the ticket. (3-26-08)

ii. The ticket must be intact. (3-26-08)

iii. The ticket must not be mutilated, altered, or tampered with in any manner. (3-26-08)

iv. The ticket cannot be counterfeit or an exact duplicate of another winning ticket. (3-26-08)

v. The ticket must have been issued by an authorized on-line retailer or dispensed by a player-activated terminal in an authorized manner. (3-26-08)

vi. The ticket must not have been stolen or cancelled. (3-26-08)

vii. The ticket must not have been previously paid. (3-26-08)

viii. The ticket must pass all other confidential security checks of the Lottery. (3-26-08)

ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. (3-26-08)

b. A ticket failing any of the validation requirements listed in Paragraph 204.08.a. of this rule is invalid and ineligible for a prize. The final decision on whether a prize is paid will be made by the Director. (3-26-08)

c. If there is a dispute between the Director and a claimant whether a ticket is a winning ticket, and if the Director determines that the ticket is not valid and a prize is not paid, the Director may replace the disputed ticket with a ticket of equivalent sales price for a future drawing of the same type of game. This will be the sole and exclusive remedy of the claimant. (3-26-08)

d. If a defective on-line ticket is purchased, the only responsibility or liability of the Lottery or of the on-line retailer is the replacement of the defective on-line ticket with another on-line ticket of equivalent value for a future drawing of the same type of game. (3-26-08)

09. Retailer Duties. Retailers with an on-line terminal (OLT) must perform the following duties: (3-26-08)

a. Pay costs associated with providing a telephone line or internet or similar connection that must be located ~~within approximately five (5) feet of the terminal;~~ as specified by the Lottery. Payment of the telephone line or internet or similar connection is nonrefundable after installation, except if the Lottery denies, through no fault of retailer, the installation of the on-line terminal. ~~(3-26-08)~~(____)

b. Pay the Lottery for the local monthly telephone or internet or similar charges per OLT as specified by the Lottery. The Lottery will pay for the mileage charges (if any) between the retailer's location and the Lottery's central site. (3-26-08)

c. Hold funds generated from the sale of on-line tickets in trust for the Lottery. At a time specified by the Lottery, the retailer must pay these funds to the Lottery plus the monthly communications charge specified above in Paragraph 204.09.b. of this rule, less: (3-26-08)

i. Prizes paid; (3-26-08)

ii. Any credit; and (3-26-08)

iii. The retailer discount. (3-26-08)

d. Locate the OLT within the retailer's premises at a point-of-sale location approved by the Lottery. The retailer is prohibited from moving an OLT unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or internet or similar charges associated with the change of OLT location if the retailer requested the change. (3-26-08)

e. Provide dedicated AC power to within approximately five (5) feet of the terminal. Dedicated AC power means that there is no other equipment on the line that is to be used for the on-line terminal. The retailer is responsible for all costs associated with providing dedicated AC power. The Lottery will provide a schematic of outlet requirements to the retailer's electrical contractor. (3-26-08)

f. Sell all Lottery games, including but not limited to instant game tickets offered by the Lottery. The retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase. (3-26-08)

g. Conduct the sale of on-line tickets during all hours and days that the retailer's business is open and the on-line system is functioning. The retailer must post the hours that redemption of winning tickets may take place if these hours are different from the retailer's normal business hours. The retailer must monitor ticket supply levels and give timely notice when any item is in short supply. (3-26-08)

h. Post winning numbers prominently where tickets are sold as soon as possible following the drawing. (3-26-08)

i. Provide secure storage for OLT supplies and a secure area for the OLT. (3-26-08)

j. Exercise due diligence in the operation of the OLT and immediately notify the Lottery and the central computer facility of any telephone line, internet, radio, or OLT malfunction, such as the issuance of invalid on-line Lottery ticket, inability to sell or redeem an on-line ticket, and non-issuance of an on-line ticket. The retailer is prohibited from performing mechanical or electrical maintenance on the OLT. (3-26-08)

k. Replace ribbons and on-line or instant ticket stock and clear paper jams as required for the OLT per the instructions provided by the Lottery. (3-26-08)

l. Pay, without reimbursement, all electricity charges in connection with the operation of OLT. (3-26-08)

10. Payment of Prizes by On-Line Retailers. (3-26-08)

a. An on-line retailer must pay to the ticket bearer on-line games prizes of less than six hundred dollars (\$600) for any validated claims presented to that on-line retailer. These prizes must be paid during all normal business hours of the on-line retailer, unless redemption hours differ from normal business hours that have been posted pursuant to Paragraph 204.09.g. of this rule, provided, that the on-line system is operational and claims can be validated. (3-26-08)

b. An on-line retailer may pay prizes in cash or by business check, certified check, money order, or any combination thereof. An on-line retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of its contract. (3-26-08)

~~**11. Retailer Compensation.** The compensation paid to on-line Lottery retailers is as follows: (3-26-08)~~

~~**a.** A discount of five percent (5%) will be applied to on-line tickets sold from a clerk-activated terminal (CAT); (3-26-08)~~

~~**b.** A discount of five percent (5%) will be applied to on-line tickets sold from a player-activated terminal (PAT); (3-26-08)~~

~~**c.** The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for each Lottery game. (3-26-08)~~

121. Retailer Settlement. (3-26-08)

a. The Director may require on-line retailers to establish an account for deposit of monies derived from on-line games with a financial institution that has the capability of electronic funds transfer (EFT). (3-26-08)

b. The amount deposited must be sufficient to cover monies due the Lottery. The Lottery will withdraw by EFT the amount due the Lottery on the day specified by the Director. If the day specified for withdrawal falls on a state holiday, withdrawal may be delayed until the next business day. (3-26-08)

132. Prize Rights Unassignable. No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and that any person may be paid the prize to which the winner is entitled pursuant to an appropriate judicial order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

143. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or to the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho Law. For purposes of this Subsection the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor

pursuant to this rule. (3-26-08)

154. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee of any prize winnings that are or may be due to a person under a disability including, but not limited to, minority, mental deficiency, physical or mental incapacity. (3-26-08)

165. Discharge of State Lottery Upon Payment. The state of Idaho, its agents, officers, employees and representatives, the Lottery, its Director, agents, officers, employees and representatives shall be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes will be final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

176. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)

205. BREAKOPEN INSTANT TICKET GAMES (RULE 205).

The Commission hereby authorizes the Director to select and operate breakopen instant ticket games that meet the criteria set forth in these rules. (3-26-08)

01. Definitions. As used in Section 205 of these rules, these terms have the following definitions: (3-26-08)

a. "Authorized Dispensing Device" means any machine, or mechanism designed for use of vending or dispensing of breakopen instant tickets. These devices may include mechanical, electrical, electro-mechanical or other devices approved by the Director of the Lottery pursuant to Section 100 of these rules. (3-26-08)

b. "Box" means a group of breakopen instant tickets with the same unique serial number. (3-26-08)

c. "Breakopen Instant Ticket" means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal numbers or symbols, or both, a few of which numbers or symbols have been designated in advance and at random as prize winners when, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon and possibly obtain a prize, a person pays an established price to a breakopen instant ticket retailer. (3-26-08)

d. "Breakopen Instant Ticket Game" means a group of breakopen instant ticket boxes with the same

thematic design and prize structure. (3-26-08)

e. “Breakopen Instant Ticket Retailer” means any person who has been approved, certified and contracted with by the Lottery to sell breakopen instant tickets. (3-26-08)

f. “Breakopen Instant Ticket Vendor” means any person who produces and provides breakopen instant tickets to the Lottery. (3-26-08)

g. “Distributor” means any person who purchases or otherwise obtains authorized dispensing devices for use in breakopen instant ticket games from any person and sells or otherwise furnishes such device to another person for the resale of or the display or operation of that device. (3-26-08)

i. As used in these rules, the term “distributor” includes a person who services and repairs authorized dispensing devices, so long as the person performing such servicing or repairs is approved by the distributor or distributor’s representative, and makes no addition to, or modification or alteration of, the authorized device. (3-26-08)

ii. A manufacturer who sells or otherwise furnishes authorized dispensing devices not manufactured by him to any other person for resale or for display or operation of that authorized device is also a “distributor.” (3-26-08)

h. “Distributor’s Representative” means any individual who represents a distributor in any of the distributor’s activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. (3-26-08)

i. “Flare” means a vendor-provided informational sign that, at a minimum, displays the prize structure, the serial number of the sleeve in play, the odds of winning a prize, and the price of the ticket. (3-26-08)

j. “Manufacturer” means any person who assembles from raw materials or subparts a completed authorized dispensing device or pieces of the authorized device for use in breakopen instant ticket activities and who sells or otherwise furnishes the same to any distributor or retail outlet. (3-26-08)

k. “Manufacturer’s representative” means any person who represents a manufacturer in any one of the manufacturer’s activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. (3-26-08)

l. “Sleeve” is a portion of a box; and is the smallest unit offered. (3-26-08)

02. Breakopen Instant Ticket Special Inspection. The Director or authorized representative shall have the authority to select any breakopen instant ticket sleeve and examine the quality and integrity of the breakopen instant ticket sleeve in any manner, including pulling all chances remaining thereon: Provided, that if the sleeve so inspected is thereby altered by such inspection in any manner and no defect, alteration, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the Lottery at the owner’s cost for the sleeve or portion thereof, and the sleeve shall become the property of the Lottery. Provided further, that for each sleeve inspected which is found to be defective in any area related to a vendor’s quality control deficiency, a fee may be assessed by the Director against the vendor of the breakopen instant ticket. (3-26-08)

03. Breakopen Instant Ticket Operation. (3-26-08)

a. No person under the age of eighteen (18) years is allowed to play or sell any breakopen instant tickets. It is the responsibility of the retailer to determine that no unauthorized person is allowed to play or sell breakopen instant tickets. (3-26-08)

b. No retailer is permitted to display or operate any breakopen instant ticket that has in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, that may deceive the public or that affects the chances of winning or losing upon the taking of any chance thereon. (3-26-08)

c. All records, reports, receipts and any unsold tickets relating to a breakopen instant ticket sleeve must be retained on the retailer's premises at least ninety (90) days after the sleeve is removed from play and must be made available on demand to representatives of the Idaho Lottery. (3-26-08)

04. Breakopen Instant Ticket Price per Play to Be Posted. No breakopen instant ticket sleeve may be placed for public play unless the cost to the player for each ticket is clearly posted on the flare. The price per ticket will be determined by the Director. (3-26-08)

05. Claiming of Prizes. Prizes must be redeemed on the same day as purchased at the location where the winning ticket was purchased, and prizes will be awarded in cash or by check. (3-26-08)

06. Limitation on Breakopen Instant Ticket Dispensing. No ticket once placed in an authorized dispensing device out for public play may be removed from the authorized device until the sleeve is permanently removed from public play, except only: (3-26-08)

a. Those tickets actually played by consumers; (3-26-08)

b. Those tickets removed by representatives of the Lottery inspecting the device or sleeve; and (3-26-08)

c. Those tickets temporarily removed during necessary repair or maintenance of the device. Excepting only tickets removed under Paragraphs 205.06.b. and 205.06.c. of this rule, once a ticket has been removed from public play it cannot again be put out for public play. (3-26-08)

07. All Devices Must Comply with Requirements. No retailer may display or put out for play, and no distributor or manufacturer or their representatives may sell or otherwise furnish any device for the dispensing of breakopen instant tickets, unless the device is approved for use by the Director, thereby making it an authorized device. (3-26-08)

a. No person may sell or transfer to another person in this state or for use within this state, nor shall place out for public play, any device for the dispensing of breakopen instant tickets that is not constructed to allow a consumer to clearly see each ticket within the device before playing the device. (3-26-08)

b. No person may put out for public play any device for the dispensing of breakopen instant tickets that is not constructed to provide for at least one (1) sleeve in play in the device. (3-26-08)

c. No person may put out for public play any device for the dispensing of breakopen instant tickets that is designed, used, or constructed, in a manner that detracts from the breakopen instant tickets or that is deceptive in any way, as determined by the Director. (3-26-08)

08. Breakopen Instant Ticket Series Assembly and Packaging. Vendors of breakopen instant ticket games must manufacture, assemble and package each game sleeve in a manner that none of the winning tickets, nor the location or approximate location of any of the winning tickets, can be determined in advance of opening the tickets. All breakopen instant ticket games must be approved and will be distributed and sold exclusively by the Lottery. The Lottery may adopt quality control standards for the manufacture of breakopen instant ticket games. (3-26-08)

09. Standards for Flares. The flare advertising prizes available from the operation of any sleeve of breakopen instant tickets must: (3-26-08)

a. Be placed near or upon the upper face, or on the top, of any authorized device used to dispense breakopen instant tickets in a manner clearly visible to the public; and (3-26-08)

b. Clearly set out each of the prizes available and the combination of numbers or symbols which win prizes. Each flare describing the prizes and winning number or symbols for a sleeve of breakopen instant tickets in play must clearly set out the sleeve number assigned to that sleeve by the vendor. The sleeve number will be placed upon the flare by the vendor. The total number of tickets originally in the sleeve will be placed upon the flare by the

vendor. (3-26-08)

10. Prize Structure. The Director will establish a prize structure detailing the estimated number of prizes that are expected to be awarded in each sleeve and a close approximation of the odds of winning such prizes. (3-26-08)

11. Retailers Eligible to Sell Breakopen Tickets. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must file an application on forms provided by the Director. The forms shall include, but are not limited to, requiring an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-26-08)

12. Retailer Application and Fee. All applications to sell breakopen instant tickets must be accompanied by a nonrefundable fee of twenty-five dollars (\$25). If a certificate is awarded to sell only breakopen instant tickets, no additional certificate fee must be paid. (3-26-08)

13. Certificate Modification. (3-26-08)

a. Certified instant ticket retailers may apply for a certificate modification to allow for the sale of breakopen instant tickets. A current instant ticket retailer will be required to complete an additional application or application supplements. If a current instant ticket retailer requests that the existing certificate be modified to allow for the sale of breakopen instant tickets, no additional application fee will be charged upon approval. (3-26-08)

b. Certified breakopen instant ticket retailers may apply for a certificate modification to allow for the sale of instant tickets. A current breakopen instant ticket retailer will be required to complete an additional application or application supplements. If a current breakopen instant ticket retailer requests that the existing certificate be modified to allow for the sale of instant tickets, an additional certificate fee of one hundred dollars (\$100) will be charged upon approval. (3-26-08)

~~**14. Retailer Compensation.** (3-26-08)~~

~~**a.** The compensation paid to Lottery retailers will be five percent (5%) of the retail price of the breakopen instant tickets. (3-26-08)~~

~~**b.** The Director may pay Lottery game retailers an additional one percent (1%) incentive bonus based on attainment of sales volume or other objectives specified by the Director for each Lottery game. (3-26-08)~~

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0803

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 17, 2008. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: In 2006, the Department of Environmental Quality (DEQ) negotiated a rule revision to IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho, which added Rules for the Control of Ammonia from Dairy Farms at Sections 760 through 764, requiring dairies above a certain threshold number of cows to be subject to industry Best Management Practices (BMPs). That rulemaking outlined a list of BMPs from which dairies could select various options for controlling ammonia emissions at their dairy farming operations.

Subsection 764.01 provides that the DEQ Director may approve additional BMPs as new information becomes available to DEQ. A BMP Review Team comprised of representatives from DEQ, the dairy industry, an environmental group, and other state agencies was subsequently formed to review these new BMPs as they were recommended.

In 2007, the BMP Review Team received a request to approve BMPs using Zeolite, an ammonia reducing product. After review, the team recommended that the DEQ Director approve these BMPs for use by dairy farming operations. The purpose of this rulemaking is to revise Subsection 764.02 to include these additional BMPs.

All dairy facilities and associations, special interest groups, agricultural agencies, public officials, or members of the public who have an interest in the regulation of air emissions from dairy 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 at the November 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the adjournment of the 2009 legislative session if adopted by the Board and approved by the Legislature.

NEGOTIATED RULEMAKING: Because of the prior review, discussion, and negotiations by the BMP Review Team, which is comprised of the majority of the original stakeholders, no additional negotiations on this revision are anticipated unless requested.

IDAHO CODE 39-107D STATEMENT: This rule is broader in scope than federal law as the federal government has not yet indicated that these particular size and type of dairy farms must obtain air quality permits. The federal government is in the emissions information gathering stage of regulating emissions from dairy farms. This rule may be revised upon completion of additional state and federal scientific research. The BMP Review Team reached a consensus that the BMPs being added pursuant to this rule are based on the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this 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 October 1, 2008.

DATED this 1st day of August, 2008.

Paula J. Wilson
 Hearing Coordinator
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 1410 N. Hilton
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 paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0803

764. DAIRY FARM BEST MANAGEMENT PRACTICES.

01. BMPs. Each dairy farm subject to Sections 760 through 764, or that otherwise obtains a permit by rule under these sections, shall employ BMPs for the control of ammonia to total twenty-seven (27) points. Points may be obtained through third party export with sufficient documentation. The table located at Subsection 764.02. lists available BMPs and the associated point value. As new information becomes available or upon request, the Director may determine a practice not listed in the table constitutes a BMP and assign a point value. (3-30-07)

02. Table - Ammonia Control Practices for Idaho Dairies.

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
Waste Storage and Treatment Systems	Synthetic Lagoon Cover	15	20	20	1
	GeoteXtile Covers	10	13	13	1
	Solids Separation	3	3	3	3, 4
	Composting	4	4	4	1
	Separate Slurry and Liquid Manure Basins	6	10	-	1
	In-House Separation	0	12	0	1
	Direct Utilization of Collected Slurry	6	10	-	1, 3, 4
	Direct Utilization of Parlor Wastewater	10	10	10	1
	Direct Utilization of Flush Water	8	0	13	3, 4

		Ammonia Control Effectiveness ¹			Compliance Method ³
System	Component	Open Lot	Freestall Scrape	Freestall Flush	
	Anaerobic Digester	-	-	-	-
	Anaerobic Lagoon	-	-	-	-
	Aerated Lagoon	10	12	15	2
	Sequencing-Batch Reactor	15	20	20	2
	Lagoon Nitrification/Denitrification Systems	15	20	20	2
	Fixed-Media Aeration Systems	15	20	20	2
	<u>Zeolite Treatment of Liquid Manure 1lb/cow/day</u>	<u>4</u>	<u>5</u>	<u>5</u>	<u>2</u>
	<u>Zeolite Treatment of Liquid Manure 2lb/cow/day</u>	<u>8</u>	<u>10</u>	<u>10</u>	<u>2</u>
General Practices	Vegetative or Wooded Buffers (established)	7	7	7	1
	Vegetative or Wooded Buffers (establishing)	2	2	2	1
	Alternatives to Copper Sulfate	-	-	-	-
Freestall Barns	Scrape Built Up Manure	-	3	3	1
	Frequent Manure Removal	UD	UD	UD	-
	Tunnel Ventilation	-	-	-	-
	Tunnel Ventilation w/Biofilters	-	10	10	1
	Tunnel Ventilation w/Washing Wall	-	10	10	3, 4
Open Lots and Corrals	Rapid Manure Removal	4	2	2	1, 2
	Corral Harrowing	4	2	2	1
	Surface Amendments	10	5	5	2
	In-Corral Composting / Stockpiling	4	2	2	1
	Summertime Deep Bedding	10	5	5	1
Animal Nutrition	Manage Dietary Protein	2	2	2	2

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
Composting Practices	Alum Incorporation	12	8	6	2
	Carbon:Nitrogen Ratio (C:N) Ratio Manipulation	10	7.5	5	2
	Composting with Windrows	-	-	-	-
	Composting Static Pile	6	4.5	3	1
	Forced Aeration Composting	10	7.5	5	1
	Forced Aeration Composting with Biofilter	12	8	6	1
	<u>Zeolite Incorporation</u>	<u>12</u>	<u>8</u>	<u>6</u>	<u>2</u>
Land Application ²	Soil Injection - Slurry	10	15	7.5	2
	Incorporation of Manure within 24 hrs	10	10	10	2
	Incorporation of Manure within 48 hrs	5	5	5	2
	Nitrification of Lagoon Effluent	10	10	15	3, 4
	Low Energy/Pressure Application Systems	7	7	10	1
	Freshwater Dilution	5	8	8	1, 2
	Pivot Drag Hoses	8	8	10	1
	Subsurface Drip Irrigation	10	10	12	1

Notes:

- The ammonia emission reduction effectiveness of each practice is rated numerically based on practical year-round implementation. Variations due to seasonal practices and expected weather conditions have been factored into these ratings. Not implementing a BMP when it is not practicable to do so, does not reduce the point value assigned to the BMP, nor does it constitute failure to perform the BMP. UD indicates that the practice is still under development.
- Land application practices assume practice is conducted on all manure; points will be pro-rated to reflect actual waste treatment; points can be obtained on exported material with sufficient documentation.
- Method used by inspector to determine compliance
 - 1=Observation by Inspector
 - 2=On-Site Recordkeeping Required
 - 3, 4=Deviation Reporting Required. Equipment upsets and/or breakdowns shall be recorded in a deviation log and if repaired in a reasonable timeframe does not constitute non-compliance with this rule.

(3-30-07)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0803

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 17, 2008. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking will incorporate by reference the National Primary Drinking Water Regulations for Lead and Copper: Short Term Regulatory Revisions and Clarifications; Final Rule, promulgated by the U.S. Environmental Protection Agency (EPA) on October 10, 2007. Incorporation by reference ensures that Idaho's rules will be neither more nor less stringent than the federal rule.

The purpose of the Lead and Copper Rule (LCR) is to protect populations from exposure to lead and copper in drinking water and reduce potential health risks associated with lead and copper. The purpose of the short-term revisions is to strengthen the implementation of the LCR in the following areas: monitoring, treatment processes, public education, customer awareness, and lead service line replacement. The short-term changes finalized in this action are expected to ensure and enhance protection of public health by reducing exposure to lead in drinking water. The revisions to the LCR neither amend the portion of the regulations related to copper nor change the action levels for lead or copper.

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 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 at the November 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the adjournment of the 2009 legislative session if adopted by the Board and approved by the Legislature.

NEGOTIATED RULEMAKING: This rulemaking is an adoption by reference of regulations promulgated by EPA; therefore, negotiations were not held.

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

FISCAL IMPACT STATEMENT: 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: The proposed rule does not impact the state general fund because the drinking water program is funded by EPA grants and by dedicated fees paid by regulated water systems. The annual direct cost to DEQ is anticipated to be between \$8,000 and \$11,000 according to an analysis from EPA (Table IV.9. - Summary of Annual Direct Costs To Systems And States From All Regulatory Changes, 72 Fed. Reg. 57,806). DEQ will incur costs for postage and supplies, preparing and mailing letters to systems, reviewing utility monitoring reports, reviewing system data, reviewing and tracking self-certification letters from systems, reviewing public notifications after action level exceedances, and consulting with systems.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Bryan Zibbell at (208) 373-0343, bryan.zibbell@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 1, 2008.

DATED this 1st day of August, 2008.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0803

151. CONSUMER CONFIDENCE REPORTS.

40 CFR Part 141, Subpart O, revised as of July 1, 2006~~8~~, is herein incorporated by reference. (~~4-2-08~~)()

(BREAK IN CONTINUITY OF SECTIONS)

350. CONTROL OF LEAD AND COPPER.

01. General Requirements. 40 CFR 141.80, revised as of July 1, 2000~~8~~, is herein incorporated by reference. (~~3-30-01~~)()

02. Applicability of Corrosion Control Treatment Steps to Small, Medium-Size, and Large Water Systems. 40 CFR 141.81, revised as of July 1, 2000~~8~~, is herein incorporated by reference. (~~3-30-01~~)()

03. Description of Corrosion Control Treatment Requirements. (12-1-92)

a. 40 CFR 141.82, revised as of July 1, 2000~~8~~, is herein incorporated by reference. (~~3-30-01~~)()

b. The Department may modify its determination of the optimal corrosion control treatment or optimal water quality control parameters where it concludes that such changes are necessary to optimize corrosion control treatment as specified in 40 CFR 141.82(h) and as referred to in Subsection 350.03. The Department may also modify its determination of the optimal corrosion control treatment or water quality control parameters where it finds such changes will provide equivalent or improved treatment in a manner which is simpler or less costly to operate. (12-10-92)

04. Source Water Treatment Requirements. 40 CFR 141.83, revised as of July 1, 2000~~8~~, is herein incorporated by reference. The Department may modify its determination of optimal source treatment or maximum permissible lead and ~~not~~ copper concentrations where it concludes that such changes are necessary as specified in 40 CFR 141.83(b)(6). (~~3-30-01~~)()

05. Lead Service Line Replacement Requirements. 40 CFR 141.84, revised as of July 1, 2000~~8~~, is

herein incorporated by reference.

~~(3-30-01)~~(____)

06. Public Education and Supplemental Monitoring Requirements. 40 CFR 141.85, revised as of July 1, 20008, is herein incorporated by reference.

~~(3-30-01)~~(____)

07. Monitoring Requirements for Lead and Copper in Tap Water. 40 CFR 141.86, revised as of July 1, 20008, is herein incorporated by reference.

~~(3-30-01)~~(____)

a. Systems with insufficient tier one (1), two (2), or three (3) sampling sites shall complete their sampling pools from “tier four (4) sampling sites” consisting of buildings or multiple family residences that contain copper pipes with lead solder installed before 1983, or if these are not available, any other sampling sites acceptable to the Department. Any community water system which includes tier four (4) sites in its sampling pool shall submit a letter to the Department indicating why it was unable to locate sufficient tier one (1), two (2), or three (3) sites.

(10-1-93)

b. Nontransient noncommunity water systems with insufficient tier one (1) and pre-1983 lead solder containing copper pipe sampling sites shall complete its sampling pool with other sampling sites acceptable to the Department. A nontransient noncommunity water system which includes sampling sites other than tier one (1) in its sampling pool, shall submit a letter to the Department indicating why it was unable to locate sufficient tier one (1) sites.

(12-10-92)

08. Monitoring Requirements for Water Quality Parameters. 40 CFR 141.87, revised as of July 1, 20008, is herein incorporated by reference.

~~(3-30-01)~~(____)

09. Monitoring Requirements for Lead and Copper in Source Water. 40 CFR 141.88, revised as of July 1, 20008, is herein incorporated by reference.

~~(3-30-01)~~(____)

10. Analytical Methods. 40 CFR 141.89, revised as of July 1, 20008, is herein incorporated by reference.

~~(3-30-01)~~(____)

11. Reporting Requirements. 40 CFR 141.90, revised as of July 1, 20008, is herein incorporated by reference.

~~(3-30-01)~~(____)

12. Recordkeeping Requirements. 40 CFR 141.91, revised as of July 1, 20008, is herein incorporated by reference.

~~(3-30-01)~~(____)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0103-0801

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 59-1314(1) and 72-1405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change: Section 59-1322(1), Idaho Code, requires the Retirement Board to establish contribution rates within certain constraints. The Board has reviewed and determined, based on actuarial valuation of reserves and liabilities, the contributions necessary to fund the level of benefits authorized by the plan. In 2003, the Board adopted proposed rules that provided for a series of three annual contribution rate increases beginning July 1, 2004 through July 1, 2006. The first of those increases when into effect on July 1, 2004. However, through a series of temporary rules (2005 - 2008), the Board postponed the second and third increases. The Board has determined that the two additional increases are not currently needed. The Board will continue to monitor funding and market conditions and will take subsequent actions regarding contribution rates if appropriate. The current contribution rates (those that became effective July 1, 2004) will continue as reflected in these rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, pages 228 through 231.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Winkle, PERSI, 334-2455.

DATED this 23rd day of July, 2008.

Alan Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702

P.O. Box 83720
Boise, ID 83720-0078
Phone: 208-334-2455
Fax: 208-334-3408

DOCKET NO. 59-0103-0801 - 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 08-1, January 2, 2008, pages 228 through 231.

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.

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 September 24, 2008, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
** Indicates that a public hearing has been scheduled.*

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

****02-0214-0802, Rules for Weights and Measures.** The rule change would increase the annual device license fees and increase rates for request testing to enable the Bureau to meet device testing requirements and to replace equipment.

IDAPA 07 - DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642

07-0102-0801, Rules Governing Fees for Electrical Inspections. (Temp & Prop)

07-0203-0801, Rules Governing Permit Fee Schedule. (Temp & Prop)

07-0701-0801, Rules Governing Installation of Heating, Ventilation, & Air Conditioning Systems. (Temp & Prop)
Changes to these 3 rules simplify the permit fee calculation for homes over 4,500 square feet by including a base fee plus additional fees for every 1,000 sq. ft. over 4,500 sq. ft., or a portion thereof; also clarifies that square footage calculation includes living space only.

07-0206-0801, Rules Concerning Uniform Plumbing Code. Amends the Uniform Plumbing Code to authorize the use of nonwater urinals where appropriate and to authorize the installation and use of nonwater urinals under certain conditions and requirements; also requires installation of a standard water distribution line for the urinal location in the event of a future retrofit.

07-0301-0802, Rules of Building Safety. Increases fee to support the ongoing inspection process for the HUD manufactured housing program.

07.04.02 - Safety Rules for Elevators, Escalators, and Moving Walks.

07-0402-0801, Corrects the title of referenced ANSI/ASME Standard A17.5 to "Elevator and Escalator Electrical Equipment."

07-0402-0802, (Temp & Prop) Reduces the reinspection fee for various types of conveyances including elevators, escalators, and lifts to reflect the actual cost of providing the service.

IDAPA 11 - IDAHO STATE POLICE 700 S. Stratford Dr., Meridian, ID 83643

11-0701-0801, Rules Governing Motor Vehicles - General Rules. Removes unnecessary and conflicting language regarding formal declaratory orders.

11-1104-0801, Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers. Eliminates the requirement that Correction Officers demonstrate the ability to distinguish primary colors.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

PO Box 83720, Boise, ID 83720-0036

****16-0602-0801, Rules Governing Standards for Child Care Licensing.** Aligns rules with the Children's Behavioral Health rules; removes obsolete and unenforceable language; revises and augments the following standards: client, staff, and financial record keeping; service plans; building safety; fire prevention and hazardous toxins reporting; strip searches and non-violent physical intervention and use of mechanical restraints; continued care and transitional living; transportation; and outdoor therapeutic program and expeditions; and adds enforcement language to ensure processes provide protection for the health and safety of children in the care of Department licensees.

****16-0614-0801, Rules Governing the Prevention of Minors' Access to Tobacco Products.** Repeal of chapter.

****16-0725-0801, Prevention of Minors' Access to Tobacco Products.** Rewrite of chapter assigns new title and chapter number to rule and establishes when a new permit is to be issued and when a permit may be closed or revoked.

IDAPA 18 - DEPARTMENT OF INSURANCE

PO Box 83720, Boise, ID 83720-0043

18-0180-0801, Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values. Establishes 1980 CSO Mortality Table as the minimum standard for computation of policy reserves and nonforfeiture values for preneed policies offered by life insurers to cover funeral and burial expenses; provides a time period for companies to transition to using these tables; and requires that department director be notified on which table is in use.

IDAPA 20 - DEPARTMENT OF LANDS

300 North 6th Street, Suite 103, Boise, ID 83720

****20-0201-0801, Rules Pertaining to the Idaho Forest Practices Act.** Conforms rule to statutory changes that allow for the diversion of water from a natural watercourse for certain forest practices and forest dust abatement without a water right, with certain restrictions.

****20-0209-0801, Method of Selling Pole-Quality Western Red Cedar.** Repeal of chapter.

****20-0210-0801, Rules for Selling of Forest Products on State-Owned Endowment Lands.** Repeal of chapter.

****20-0214-0801, Rules for Selling Forest Products on State Owned Endowment Lands.** Consolidates two existing rules that are concurrently being repealed, IDAPA 20.02.09 and 20.02.10, to eliminate duplication.

20-0602-0801, General Rules, Licensing and Check Scales of the Idaho Board of Scaling Practices. Consolidates all Board rules into a single chapter to eliminate duplication; reindexes this chapter from 20.06.02 to 20.06.01; incorporates by reference of the "Idaho Log Scaling Manual"; adds new rules to reflect gross and net scale determination; and makes technical corrections to existing rules.

20-0603-0801, Measurement Rules for Forest Products of the Idaho Board of Scaling Practices. Repeal of chapter.

IDAPA 21 - DIVISION OF VETERANS SERVICES

320 Collins Road, Boise, ID 83702

21-0104-0802, Rules Governing the Idaho State Veterans Cemetery. Allows the division administrator to close the cemetery at 6 p.m. when a fireworks display is planned to keep public from using cemetery as a viewing area.

IDAPA 22- BOARD OF MEDICINE
PO Box 83720-0058, Boise, ID 83720-0085

22-0101-0801, Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho. Allows for licensure by endorsement; requires licensees to serve as panelists for the prelitigation consideration of medical malpractice claims; enumerates the amount of medical malpractice judgments or settlements to disclose; and anticipates changes to the United States Medical Licensing Exam (USMLE).

22-0103-0801, Rules for the Licensure of Physician Assistants. Outlines licensure application and legal residency status requirements; clarifies requirement to submit certification examination results; clarifies scope of practice for delivery of medication; broadens the fee schedules in anticipation of increasing real costs of administration; and adds a provision for volunteer licenses.

IDAPA 23 - BOARD OF NURSING
PO Box 83720, Boise, ID 83720-0061

23-0101-0801, Rules of the Idaho Board of Nursing. Permits the Board to waive strict educational and examination requirements, in appropriate and very limited circumstances, for nurses currently licensed in another jurisdiction who are applying for licensure in Idaho.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
1109 Main St., Ste. 220, Boise, ID 83702

24-0501-0801, Rules of the Board of Drinking Water and Wastewater Professionals. Inactive applications terminate after one year of inactivity; clarifies the exam for backflow assembly testers; establishes a very small water system exam requirement as an option for operator in training; establishes the hours of experience and education courses required for operators.

24-1101-0801, Rules of the State Board of Podiatry. Increases the original license and annual renewal license fees.

24-1301-0801, Rules of the Physical Therapy Licensure Board. Reduces the initial license, renewal, and reinstatement fees to licensees.

24-1601-0801, Rules of the State Board of Dentistry. Increases the annual license renewal fee.

IDAPA 27 - BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067

27.01.01 - Rules of the Idaho Board of Pharmacy.

27-0101-0801, Implements changes to Wholesale Drug Distribution Act; clarifies requirements and responsibilities of “pharmacist in charge”; makes pharmacy technicians' employment changes reportable; changes term “licensed” to “registered” in reference to pharmacists; and changes name and designation code for one of the accredited continuing education program organizations.

27-0101-0802, Changes term “pharmaceutical care” to “pharmacotherapy”; incorporates the statutory definitions of “pharmaceutical care, “drug therapy,” “other pharmaceutical patient care services,” “collaborative pharmacy practice,” “collaborative pharmacy practice agreement,” and “pharmacist's scope of practice pursuant to the collaborative practice agreement.” Also defines “health information,” “HIPAA,” “individually identifiable health information,” and “protected health information.”

27-0101-0803, Clarifies the grounds upon which pharmacy technicians are subject to discipline, the sanctions and penalties which may be imposed, and procedures for reinstatement.

27-0101-0804, (Temp & Prop) Complies with federal law by requiring that no Schedule II order will be filled more than 90 days after the date the order was written.

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074**

31-7103-0801, Railroad Safety and Accident Reporting Rules. Incorporates by reference 49 CFR Parts 172 and 174 (effective 10/1/08) which: add 30 new substances to the list of hazardous substances; require hazardous material shippers to provide emergency response telephone numbers on the material shipping documents; add new entries to the hazardous material listing and new rail car placarding requirements; develop alternative emergency response actions for various concentrations of ethanol and alcohol in gasoline mixtures; and also require railroads to compile annual data on certain shipments of explosives, "toxic by inhalation," and radioactive materials for risk and alternate route assessment and require inspections of placarded hazardous material rail cars for signs of tampering or suspicious activities.

**IDAPA 33 -REAL ESTATE COMMISSION
633 N. Fourth St., Boise, ID 83702**

****33-0101-0801, Rules of the Idaho State Real Estate Commission.** Clarifies that the continuing education courses approved for licensing credit must be directly related to the practice of real estate.

**IDAPA 37 - DEPARTMENT OF WATER RESOURCES
PO Box 83720, Boise, ID 83720-0098**

****37-0309-0601, Well Construction Standards Rules.** Updates and revisions include: more comprehensive definitions; clarification of the minimum requirements for all wells; increased minimum standards on steel casing wall thicknesses; specific provisions and allowances for the use of thermoplastic pipe (PVC) as casing or liner with out having to obtain a waiver for each instance; requirements for more effective annular seals to prevent contamination, aquifer commingling, and loss of ground water; increased minimum surface seal depth from 18 to 38 feet; and improved standards and methodology concerning well disinfection, to protect public health and safety.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129**

39-0222-0801, Rules Governing Registration and Permit Fee Administration. States that motor carriers cannot participate in future registration installment payment plans as allowed in Idaho Code, if previous registration installment payment plans have been suspended due to non-payment or payment with an insufficient funds check.

39-0306-0801, Rules Governing Allowable Vehicle Size. (Temp & Prop) Complies with Idaho Code by limiting the overhang or extension of a load to no more than 10 feet beyond the end of a vehicle.

39-0345-0801, Rules Governing Sale of No Longer Useful or Usable Real Property. Complies with Idaho Code by providing that all surplus real property will be offered first to the adjacent land owner.

**IDAPA 52 - IDAHO LOTTERY COMMISSION
1199 Shoreline Lane, Suite 100, Boise, ID 83702**

52-0102-0801, Gaming Rules of the Idaho State Lottery Commission. Sets charitable gaming reporting requirements for better accountability and to assure legitimacy of participants and that profits go to charity; limits the ability of a "for profit" business to use a legitimate charity for personal gain; and requires bingo vendors to supply detailed information on invoices to improve tracking and accountability.

52-0103-0801, Rules Governing Operations of the Idaho State Lottery. Clarifies longstanding methods of selling lottery tickets; requires that an independent certified public accountant witness on-line game drawings; removes requirements that on-line game drawings be videotaped and that equipment used in such drawings be inspected by a certified public accountant.

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

58-0101-0803, Rules for the Control of Air Pollution in Idaho. Outlines a list of BMPs (best management practices) of various options for controlling ammonia emissions at their dairy farming operations including the use of Zeolite. Comment by 10/1/08.

58-0108-0803, Idaho Rules for Public Drinking Water Systems. Incorporates by reference the National Primary Drinking Water Regulations for Lead and Copper. Short Term Regulatory Revisions and Clarifications; Final Rule as promulgated by the USEPA on October 10, 2007. Incorporation by reference ensures that Idaho's rules will be neither more nor less stringent than the federal rule. This regulation is designed to protect populations from exposure to lead and copper in drinking water and reduce potential health risks associated with lead and copper. The short-term revisions strengthen the implementation of this rule in the following areas: monitoring, treatment processes, public education, customer awareness, and lead service line replacement. Comment by 10/1/08.

NEGOTIATED RULEMAKING MEETINGS ARE SCHEDULED FOR THE FOLLOWING:**IDAPA 02 - Department of Agriculture**

02-0613-0801, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho.

A PUBLIC HEARING HAS BEEN SCHEDULED FRO THE FOLLOWING:**IDAPA 35 - State Tax Commission**

35-0103-0801, Property Tax Administrative Rules (comment period extended)

Please refer to the Idaho Administrative Bulletin, **September 3, 2008, Volume 08-9** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

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

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

Subjects Affected Index

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - Rules for Weights and Measures

Docket No. **02-0214-0802 (Fee Rule)**

- 016. Maximum License Fee Schedule For Commercially Used Weighing
And Measuring Instruments And Devices. 16
- 100. Charges For Special Request Testing Or Examination. 17

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.02 - Rules Governing Fees For Electrical Inspections

Docket No. **07-0102-0801 (Fee Rule)**

- 011. Fees For Electrical Inspections. 20

07.02.03 - Rules Governing Permit Fee Schedule

Docket No. **07-0203-0801 (Fee Rule)**

- 011. Fee Schedule. 25

07.02.06 - Rules Concerning Uniform Plumbing Code

Docket No. **07-0206-0801**

- 011. Adoption And Incorporation By Reference Of The 2003 Uniform Plumbing Code. 29

07.03.01 - Rules of Building Safety

Docket No. **07-0301-0802 (Fee Rule)**

- 036. Manufactured Homes. 33

07.04.02 - Safety Rules for Elevators, Escalators, and Moving Walks

Docket No. **07-0402-0801**

- 004. Adoption And Incorporation By Reference. 34

Docket No. **07-0402-0802 (Fee Rule)**

- 011. Inspection Requirements. 37

07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety

Docket No. **07-0701-0801 (Fee Rule)**

- 051. Fees For HVAC Inspections. 40

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - Rules Governing Motor Vehicles - General Rules

Docket No. **11-0701-0801**

- 002. Written Interpretations (Rule 2). 42

11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers

Docket No. **11-1104-0801**

- 039. Physical -- Medical. 44

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.02 - Rules Governing Standards for Child Care Licensing

Docket No. **16-0602-0801**

000. Legal Authority.....	49
001. Title, Scope, And Policy.....	49
003. Administrative Appeals.....	49
004. Incorporation By Reference.....	50
005. Office Hours -- Mailing Address -- Street Address -- Telephone -- Website.....	50
007. -- 008. (Reserved).....	51
010. Definitions A Through M.....	51
011. Definitions N Through Z.....	53
012. -- 099. (Reserved).....	55
100. Licensing And Certification.....	55
101. Applications For License Or Certification.....	55
102. Disposition Of Applications.....	56
105. Revisit, Relicense And Recertification.....	58
106. Complaints Against Foster Homes, Children's Residential Care Facilities And Children's Agencies.....	58
107. Suspension For Circumstances Beyond Control Of Foster Parent Or Operator.....	58
108. Suspension Or Revocation For Infractions.....	58
109. Non-renewal, Denial, Revocation, Or Suspension Of License Or Certification.....	58
110. Enforcement Remedy Of Ban On Admissions.....	59
111. Enforcement Remedy Of Summary Suspension And Transfer Of Residents.....	59
112. Enforcement Remedy Revocation Of License And Transfer Of Residents.....	59
113. Effect Of Previous Revocation Or Denial Of A License.....	59
114. -- 299. (Reserved).....	60
501. Access By Department Authorized Agents.....	60
502. Compliance Required.....	60
503. Notification To The Licensing Authority.....	60
504. Notification To The Licensing Authority No Later Than One Working Day.....	60
505. Unauthorized Absences.....	60
506. Death Of A Child In Care Notification.....	60
507. -- 519. (Reserved).....	60
520. Written Bylaws.....	61
521. Governing Body Required.....	61
522. Delineation Of Job Responsibilities.....	61
523. Organizational Chart, Policies And Procedures.....	61
524. Insurance Coverage.....	61
525. Quality Of Services Environment.....	61
526. Research Protections For Persons Served.....	61
527. Confidentiality And Privacy Protections Of Persons Served.....	62
528. Description Of Services.....	62
529. Intake Policy.....	62
530. Continued Care.....	62
531. Additional Documentation Requirements For Continued Care.....	62
532. -- 534. (Reserved).....	63
535. Sufficient Financial Resources.....	63
536. Annual Audit.....	63
537. -- 543. (Reserved).....	63
544. Human Resources Needed.....	63
545. Service Worker Or Social Worker.....	63

546. Staff Recruitment, Hiring, Supervision, Training, Evaluation, Promotion And Discipline.....	63
547. Person Filling More Than One Position.....	64
548. (Reserved).....	64
549. Tuberculosis Screening.....	64
550. Volunteer Supervision.....	64
551. Employee And Volunteer Orientation.....	64
552. Employee And Volunteer Training.....	64
553. -- 559. (Reserved).....	65
560. Permanent Register.....	65
561. Content Of Child's Record.....	65
562. Authorizations Required.....	66
563. Service Plans.....	66
564. Shelter Care Admission And Plans.....	67
565. Maintenance Of Records.....	68
566. Record Retention.....	68
567. -- 569. (Reserved).....	68
570. Reporting Of Child Abuse, Abandonment, And Neglect.....	68
571. Health Services.....	68
572. Dental Services.....	68
573. Non-Violent Physical Intervention.....	68
574. Client Grievance Policy.....	69
575. Suicide Prevention Plan.....	69
576. Clothing.....	69
577. Visitation Policy.....	69
578. Correspondence Policy.....	69
579. Religious And Culture Policy.....	70
580. Education Policy.....	70
581. Personal Possessions, Allowance, And Money Policy.....	70
582. Emergency Policies.....	70
601. Chief Administrator Position And Qualifications.....	71
602. Service Worker Supervisor Position.....	71
603. (Reserved).....	71
604. Social Worker Position And Qualifications.....	71
605. Service Worker Position And Qualifications.....	71
606. Social Worker Or Service Worker Responsibilities.....	72
607. Self-Supervision Prohibited.....	72
608. Staff Workloads.....	72
609. -- 614. (Reserved).....	72
615. Additional Provisions For Foster Home Certification.....	72
616. Program Description.....	72
617. Licensing And Certification Agency Policies And Procedures For Foster Homes.....	72
618. Application Request Process.....	72
619. (Reserved).....	73
620. Initial And Subsequent Family Foster Home Evaluation Study Process And Contents.....	73
621. Training.....	73
622. Placement Agreement Required Contents.....	73

623. Complaint Investigation, Basis, Time Requirements, Notifying Foster Parents, Contents, And Process.	73
624. Records Management, Maintenance, Availability To Foster Parent, And Contents.	74
625. -- 629. (Reserved).	74
630. Additional Placement Considerations.	74
631. Emergency Evacuation Plan.	74
632. Unusual Incident Policy.	75
633. Service Plans And Participants.	75
634. Children's Agency Supervision Of Child.	75
705. Chief Administrator Qualifications.	75
706. Service Worker Supervisor Qualifications.	75
707. Direct Care Staff Supervisor Qualifications.	75
708. (Reserved).	76
709. Direct Care Staff Qualifications.	76
710. Required Staff Ratios.	76
711. House Parent Relief Staff.	76
712. Staff Training.	77
713. -- 714. (Reserved).	77
715. Compliance With Applicable Laws.	77
716. Children's Residential Care Facility Building Requirements.	77
717. National Electrical Code Compliance.	77
718. Fire Safety Requirements.	77
719. Emergency Procedures.	78
720. Emergency Drills.	78
721. Public Health District Inspection.	78
722. Buildings, Grounds, Furnishings And Equipment.	79
723. Maintenance.	79
724. Equipment Storage.	79
725. Service Sink.	79
726. Hazardous Materials Or Toxins.	79
727. Lighting.	79
728. Heating.	79
729. Bathroom Facilities.	79
730. Sleeping Rooms.	79
731. Beds.	80
732. Storage Of Poisonous And Toxic Materials.	80
733. Flammable Liquids.	80
734. Firearms.	80
736. General Safety Provisions.	80
737. Diapering And Sanitation.	81
738. -- 744. (Reserved).	81
745. Education Program.	81
746. Work.	81
747. Recreation, Physical Exercise, And Leisure Time Activities.	81
748. Sleep.	81
750. Water Front.	82
751. Supervision Of Recreational Activity.	82
752. Medication Storage And Administration.	82

753. Universal Precautions.	83
754. First Aid Kit.	83
755. Nutrition.	83
756. Animals And Pets.	83
757. Use Of Tobacco Products, Alcohol, And Illegal Drugs Prohibited.	83
758. Transporting Children.	83
759. Contraband.	84
760. Searches.	84
761. Behavior Management And Discipline Policy.	85
762. Time-Out.	86
763. Unlocked Seclusion.	86
764. Locked Seclusion.	87
765. Locked Seclusion Room Requirements.	88
766. Mechanical Restraint.	88
767. Alternative Forms Of Restraint.	90
768. Transportation Of Children In Restraints Prohibited.	91
780. Additional Provisions For Children's Alcohol-Drug Abuse Residential Care Facilities.	91
781. --789. (Reserved).	93
801. (Reserved).	93
802. Policies And Procedures.	94
803. -- 804. (Reserved).	94
805. Base Camp Requirements.	94
806. High Adventure Requirements.	94
807. -- 809. (Reserved).	95
810. Staff Qualifications For Children's Therapeutic Outdoor Programs.	95
811. Staff Health Requirements.	97
812. Skills And Training.	97
813. Staff Ratios And Group Size.	98
814. Staff Use Of Alcohol Or Controlled Substances Prohibited.	98
815. -- 820. (Reserved).	99
821. Assessments.	99
822. Physical Examination.	99
823. Grouping By Age.	100
824. Expeditions.	100
825. Safety.	101
826. Communications.	101
827. Emergency Plan.	101
828. Expedition And Hiking Limit Requirements.	102
829. Water Requirements.	102
830. Nutritional And Sanitary Requirements.	103
831. -- 834. (Reserved).	103
835. Health Care.	103
836. Medication Storage And Administration.	104
837. -- 839. (Reserved).	104
840. Participant Clothing, Equipment And Supplies.	105
841. Contraband.	105
842. Searches.	105

843. Behavior Management And Discipline Policy.....	106
844. Time-Out.....	107
845. Work.....	108
846. Animals And Pets.....	108
847. Transporting Children.....	108
848. Firearms.....	108
849. (Reserved).....	108
850. Program Summary.....	108

16.07.25 - Prevention of Minors' Access to Tobacco Products**Docket No. 16-0725-0801 (New Chapter)**

000. Legal Authority.....	112
001. Title And Scope.....	112
002. Written Interpretations.....	112
003. Administrative Appeals.....	112
004. Incorporation By Reference.....	112
005. Office -- Office Hours -- Mailing Address -- Street Address -- Telephone Number -- Internet Website.....	112
006. Confidentiality Of Records And Public Records Requests.....	113
007. -- 009. (Reserved).....	113
010. Definitions.....	113
011. -- 019. (Reserved).....	115
020. Application For Permit.....	115
021. Permittee Responsibilities.....	116
022. Delivery Sale Additional Requirements.....	117
023. -- 050. (Reserved).....	117
051. Civil Penalties For Violation Of Permit.....	117
052. Criminal Penalties.....	118
053. -- 100. (Reserved).....	118
101. Inspections.....	118
102. -- 999. (Reserved).....	119

IDAPA 18 - DEPARTMENT OF INSURANCE**18.01.80 - Preneed Life Insurance Minimum Standards for Determining
Reserve Liabilities and Nonforfeiture Values****Docket No. 18-0180-0801 (New Chapter)**

000. Legal Authority.....	122
001. Title And Scope.....	122
002. Written Interpretations.....	122
003. Administrative Appeals.....	122
004. Incorporation By Reference.....	122
005. Office -- Office Hours -- Mailing Address, Street Address And Web Site.....	122
006. Public Records Act Compliance.....	123
007. -- 009. (Reserved).....	123
010. Definitions.....	123
011. Minimum Standards.....	123
012. Transition Rules.....	123
013. Effective Date.....	124
014. -- 999. (Reserved).....	124

IDAPA 20 - DEPARTMENT OF LANDS**20.02.01 - Rules Pertaining to the Idaho Forest Practices Act**Docket No. **20-0201-0801**

020. General Rules.....	126
-------------------------	-----

20.02.14 - Rules for Selling Forest Products on State-Owned Endowment LandsDocket No. **20-0214-0801 (New Chapter)**

000. Legal Authority.....	132
001. Title And Scope.....	132
002. Written Interpretation.....	132
003. Administrative Appeals.....	132
004. Incorporation By Reference.....	132
005. Office - Office Hours - Mailing Address And Street Address.....	132
006. Public Records Act Compliance.....	132
007. -- 009. (Reserved).....	133
010. Definitions.....	133
011. Abbreviations.....	134
012. -- 018. (Reserved).....	134
019. Firewood And Personal Use Product Permits.....	134
020. Direct Sales.....	134
021. Salvage Sales.....	134
022. Timber Sales.....	134
023. Cedar Pole Sale Selection.....	134
024. Cedar Pole Sale Procedures.....	134
025. Pole Specifications.....	136
026. Annual Sales Plan.....	136
027. -- 030. (Reserved).....	136
031. Timber Sale Auctions.....	136
032. Timber Sale Contract Signatures.....	136
033. Initial Deposit And Bonds.....	136
034. -- 040. (Reserved).....	137
041. Stumpage And Interest Payment.....	137
042. Timber Sale Cancellation.....	137
043. Timber Sale Termination.....	137
044. -- 999. (Reserved).....	137

20.06.02 - General Rules, Licensing and Check Scales of the Idaho Board of Scaling PracticesDocket No. **20-0602-0801**

001. Title And Scope.....	139
004. Incorporation By Reference.....	139
005. Office -- Office Hours -- Mailing Address And Street Address.....	139
006. Public Records Act Compliance.....	140
007. -- 009. (Reserved).....	140
010. Definitions.....	140
100. Payment For Logging Or Hauling.....	141
300. Standard License Examination.....	141
401. -- 499. (Reserved).....	142
500. Method Of Scaling Forest Products For Commercial Purposes.....	142
501. Gross Volume Conversions.....	143

502. General Scaling Requirements.....	143
503. Gross Decimal "C" Scale Determination.	143
505. -- 799. (Reserved).....	143
800. Check Scaling Procedures.....	143
IDAPA 21 - DIVISION OF VETERANS SERVICES	
21.01.04 - Rules Governing the Idaho State Veterans Cemetery	
Docket No. 21-0104-0802	
030. Cemetery Use.....	147
IDAPA 22 - BOARD OF MEDICINE	
22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery in Idaho	
Docket No. 22-0101-0801	
050. General Qualifications For Licensure And Renewal.....	149
051. Licensure For Graduates Of International Medical Schools Located Outside Of The United States And Canada.....	151
053. Licensure By Endorsement.....	152
054. -- 075. (Reserved).....	153
081. Physician Panelist For Prelitigation Consideration Of Medical Malpractice Claims. ..	153
081. -- 099. (Reserved).....	153
22.01.03 - Rules for the Licensure of Physician Assistants	
Docket No. 22-0103-0801 (Fee Rule)	
008. Severability.....	155
009. (Reserved).....	155
010. Definitions.....	155
020. Application.....	156
021. Requirements For Licensure.....	157
028. Scope Of Practice.....	158
029. Continuing Education Requirements.....	159
030. Practice Standards.....	159
036. Graduate Physician Assistant.....	160
037. Disciplinary Proceedings And Notification Of Change.....	161
038. -- 040. (Reserved).....	162
041. Physician Assistant Trainee.....	162
042. Prescription Writing.....	162
043. Delivery Of Medication.....	163
044. -- 050. (Reserved).....	163
051. Fees -- License Issuance, Renewal, Cancellation And Reinstatement.....	163
IDAPA 23 - BOARD OF NURSING	
23.01.01 - Rules of the Idaho Board of Nursing	
Docket No. 23-0101-0801	
240. Qualifications For Licensure By Endorsement.....	167
IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES	
24.05.01 - Rules of the Board of Drinking Water and Wastewater Professionals	
Docket No. 24-0501-0801	
150. Application (Rule 150).....	169

300. Requirements For License (Rule 300).....	169
24.11.01 - Rules of the State Board of Podiatry	
Docket No. 24-1101-0801 (Fee Rule)	
300. Fees (Rule 300).....	174
24.13.01 - Rules of the Physical Therapy Licensure Board	
Docket No. 24-1301-0801 (Fee Rule)	
200. Fees (Rule 200).....	176
24.16.01 - Rules of the State Board of Dentistry	
Docket No. 24-1601-0801 (Fee Rule)	
250. Fees (Rule 250).....	178
IDAPA 27 - BOARD OF PHARMACY	
27.01.01 - Rules of the Idaho Board of Pharmacy	
Docket No. 27-0101-0801	
134. Amount Of Continuing Education.....	180
156. Pharmacies.....	181
323. Minimum Requirements For Licensure.....	183
356. Veterinary Drug Orders.....	185
357. Drug Orders.....	185
404. Due June 30, Annually -- Table.....	186
405. Student Pharmacist Registration.....	187
469. Prescription Reporting.....	187
27.01.01 - Rules of the Idaho Board of Pharmacy	
Docket No. 27-0101-0802	
165. Pharmaceutical Care.....	189
27.01.01 - Rules of the Idaho Board of Pharmacy	
Docket No. 27-0101-0803	
251. Pharmacy Technicians.....	194
27.01.01 - Rules of the Idaho Board of Pharmacy	
Docket No. 27-0101-0804	
458. Expiration Date: Schedule II Prescription Order.....	197
IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION	
31.71.03 - Railroad Safety and Accident Reporting Rules	
Docket No. 31-7103-0801	
103. Transportation Of Hazardous Material By Rail (Rule 103).....	199
IDAPA 33 - REAL ESTATE COMMISSION	
33.01.01 - Rules of the Idaho Real Estate Commission	
Docket No. 33-0101-0801	
402. Approved Topics For Continuing Education.....	201
IDAPA 37 - DEPARTMENT OF WATER RESOURCES	
37.03.09 - Well Construction Standards Rules	
Docket No. 37-0309-0601	
000. Legal Authority (Rule 0).....	205

001. Title And Scope (Rule 1).	205
002. Written Interpretation (Rule 2).	205
003. Administrative Appeals (Rule 3).	206
004. Incorporation By Reference (Rule 4).	206
005. Office Hours -- Mailing Address And Street Address (Rule 5).	206
006. Public Records Act Compliance (Rule 6).	206
007. -- 009. (Reserved).	206
010. Definitions (Rule 10).	206
011. -- 024. (Reserved).	213
025. Construction Of Cold Water Wells (Rule 25).	213
026. -- 029. (Reserved).	226
030. Construction Of Low Temperature Geothermal Resource Wells And Bonding (Rule 30).	226
031. -- 034. (Reserved).	229
035. Health Standards (Rule 35).	229
036. -- 039. (Reserved).	230
040. Areas Of Drilling Concern (Rule 40).	230
041. -- 044. (Reserved).	231
045. Drilling Permit Requirements (Rule 45).	231
046. -- 049. (Reserved).	233
050. Penalties (Rule 50).	233
051. -- 999. (Reserved).	233

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.22 - Rules Governing Registration and Permit Fee Administration

Docket No. **39-0222-0801**

200. Installment Payments For Commercial Vehicle Registration.	247
---	-----

39.03.06 - Rules Governing Allowable Vehicle Size

Docket No. **39-0306-0801**

300. Load Overhang.	250
--------------------------	-----

39.03.45 - Rules Governing Sale of No Longer Useful or Usable Real Property

Docket No. **39-0345-0801**

010. Definition.	252
301. Method Of Sale For Property.	252
302. Sale Or Exchange Of Property To Tax Supported Entities At The Appraised Value. .	252
304. Method Of Sale For Property Not Purchased By A Public Entity Or A Contiguous Property Owner.	252

IDAPA 52 - IDAHO STATE LOTTERY

52.01.02 - Gaming Rules of the Idaho State Lottery Commission

Docket No. **52-0102-0801**

004. Administrative Arm Of Idaho State Lottery (Rule 4).	254
010. Definitions (Rule 10).	254
101. Number Of Sessions Per Week (Rule 101).	258
116. Payment Of Expenses, Winnings, And Charitable Contributions (Rule 116).	258
117. Minimum Charitable Or Nonprofit Donation (Rule 117).	258
122. General Ledger (Rule 122).	258
202. Ownership Of Prizes (Rule 202).	259

203. Maximum Prizes (Rule 203).....	259
204. Requirements For Donation To Charity -- Limitation On Expenses (Rule 204).....	259
205. General Ledger And Recordkeeping (Rule 205).....	259
206. Annual Raffle Report (Rule 206).....	259
207. Independent Audit Of Large Raffles (Rule 207).....	259
208. -- 299. (Reserved).....	259
302. Information To Be Provided In Application (Rule 302).....	259
303. Limitation Of Involvement By For-profit Businesses (Rule 303).....	260
304. Multiple Chapters Licensed Together (Rule 304).....	260
305. Action On Licenses (Rule 305).....	261
411. Paper Bingo Card Manufacturers Standards (Rule 411).....	261
 52.01.03 - Rules Governing Operations of the Idaho State Lottery	
Docket No. 52-0103-0801	
100. General Provisions (Rule 100).....	263
202. General Instant Ticket Game Operating Rules (Rule 202).....	267
204. On-Line Computer Games (Rule 204).....	272
205. Breakopen Instant Ticket Games (Rule 205).....	278
 IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY	
58.01.01 - Rules for the Control of Air Pollution in Idaho	
Docket No. 58-0101-0803	
764. Dairy Farm Best Management Practices.....	283
 58.01.08 - Idaho Rules for Public Drinking Water Systems	
Docket No. 58-0108-0803	
151. Consumer Confidence Reports.....	287
350. Control Of Lead And Copper.....	287

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK YOU HAVE
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It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
and final rules, public hearing notices
and vacated rulemaking notices.**

Subject Index

Numerics

2001 CSO Election 123
2001 CSO Mortality Table 123

A

Abandoning of Wells, Low
Temperature Geothermal Resource
Wells & Bonding 228
Access By Department Authorized
Agents, Residential Care Facility 60
Access Port or Pressure Gage,
Construction of Cold Water
Wells 223
Access to Community Resources,
Children's Residential Care
Facilities 77
Access, Inspection Requirements 37
Acclimation to Environment, Children's
Therapeutic Outdoor Programs 102
Accreditation by VAWD 185
Accredited Residential School 51
ACPE or CME, Amount of Continuing
Pharmacy Education 180
Action On Licenses 261
Additional Continued Care Plans 62
Additional Documentation
Requirements For Continued
Care 62
Additional Fees & Re-Inspection
Fees 26, 41
Additional Fees & Reinspection Fees,
Fees For Electrical Inspections 22
Additional Placement Considerations,
Children's Agencies 74
Additional Provisions For Children's
Alcohol-drug Abuse Residential Care
Facilities 91
Additional Provisions For Foster Home
Certification 72
Additional Requirements, Areas of
Drilling Concern 230
Administrative Arm Of Idaho State
Lottery 254
Administrative Fee 252
Administrator Approval, Mechanical
Restraint, Children's Residential
Care Facilities 88
Adoption & Incorporation by
Reference 34
Adoption of Federal Safety Regulations,
Transportation of Hazardous Material
by Rail 199

Advertise 159
Aerial Water Drops, Children's
Therapeutic Outdoor Programs 103
Affidavit 153
Alcohol-Drug Abuse Treatment
Facility 51
All Devices Must Comply with
Requirements, Breakopen Instant
Ticket Games 280
Allocation of Revenues for Prizes 265
Alternate Supervising Physician 155
Alternative Forms Of Restraint,
Children's Residential Care
Facilities 90
Amount Of Continuing Education 180
Analytical Methods, Control of Lead &
Copper 288
Animals & Pets, Children's Residential
Care Facilities 83
Animals & Pets, Children's Therapeutic
Outdoor Programs 108
Annual Audit 63
Annual Raffle Report 259
Annual Renewal Fee 174, 178
Annual Report of Pharmacy
Employer 181
Annual Report, General Ledger 258
Annual Review & Consultation 127
Annual Sales Plan 136
Annular Space 206
Appendix A - Employee Training
Form 119
Applicability of Corrosion Control
Treatment Steps to Small, Medium-
Size, & Large Drinking Water
Systems, Control of Lead &
Copper 287
Application 152, 156, 169
Application Deadline 169
Application Fee 174
Application Fees 176
Application for Exemption, Application
for Permit 116
Application For Permit 115
Application Request Process,
Children's Agencies 72
Application Required 169
Applications For License Or
Certification 55
Applications for Licenses 261
Approval of Application 56
Approved Program 155

Approved Seal or Seal Material 206
Approved Topics For Continuing
Education 201
Aquifer 206
Area of Drilling Concern 206
Areas Of Drilling Concern 230
Artesian Water 206
Artificial Gravel Pack 207
Assess Compliance 61
Assess Disrupted Placement 61
Assessments, Children's Therapeutic
Outdoor Programs 99
Audit 254
Authorizations Required, Residential
Care Facility 66
Auto or Boat Transporter, Load
Overhang 250
Autodaubing Features or
Autodaubing 254

B

Background Check of Applicants,
Information to be Provided in
Application 259
Base Camp Requirements, Children's
Therapeutic Outdoor Program 94
Base Camp, Children's Therapeutic
Outdoor Programs 94
Bathroom Facilities, Children's
Residential Care Facilities 79
Beds, Children's Residential Care
Facilities 80
Behavior Management & Discipline
Policy, Children's Residential Care
Facilities 85
Behavior Management & Discipline
Policy, Children's Therapeutic
Outdoor Programs 106
Bentonite 207
Bentonite Grout 207
Bidding Limited to Cedar 135
Bingo 254
Bingo Advisory Board or Board 255
Blackout 255
Blow Out Prevention Equipment, Low
Temperature Geothermal Resource
Wells & Bonding 228
Board 133
Body Cavity Searches are
Prohibited 85, 106
Bonanza 255
Bond Requirement, Areas of Drilling
Concern 230

- Bore Diameter 207
Borehole (also Well Bore) 207
Bottom Hole Temperature of an Existing or Proposed Well 207
Breakopen Instant Ticket Games 278
Breakopen Instant Ticket Operation 279
Breakopen Instant Ticket Price per Play to be Posted 280
Breakopen Instant Ticket Series Assembly & Packaging 280
Breakopen Instant Ticket Special Inspection 279
Buildings, Grounds, Furnishings & Equipment, Children's Residential Care Facilities 79
Business 113
- C**
- Cable Yarding 133
Casing 207
Casing, Construction of Cold Water Wells 215
Casing, Low Temperature Geothermal Resource Wells & Bonding 227
Cathodic Protection Well 207
Cathodic Protection Wells, Construction of Cold Water Wells 222
Cedar 133
Cedar Pole 133
Cedar Pole Sale Procedures 134
Cedar Pole Sale Selection 134
Cemetery Use 147
Certificate Modification, Breakopen Instant Ticket Games 281
Change in Administrator, Notification To The Licensing Authority No Later Than One Day 60
Change of Ownership or Location, Pharmacies 181
Changes in Information Must be Submitted to Board, Minimum Required Information for Licensure 185
Character 149, 152
Charges For Special Request Testing Or Examination, Weights & Measures 17
Charitable Contribution Acknowledgement Report Form or CCARF 255
Charitable Donation Reporting Form 255
Charitable Organization 255
Charitable Organizations, Information to be Provided in Application 260
Charitable Purpose 255
Check Scaling 140
Check Scaling Procedures 143
Chief Administrator 51
Chief Administrator Position & Qualifications, Children's Agency 71
Chief Administrator Qualifications, Children's Residential Care Facilities 75
Child Care 51
Child Placement Preparation, Children's Agencies 74
Children's Agency 51
Children's Camp 52
Children's Institution 52
Children's Residential Care Facility Building Requirements 77
Children's Therapeutic Outdoor Program 52
Children's Agency Supervision Of Child, Children's Agencies 75
Children's Residential Care Facility 52
Chips 207
Civil Penalties For Violation Of Permit 117
Claiming of Prizes, Breakopen Instant Ticket Games 280
Claims 266
Client Grievance Policy, Residential Care Facility 69
Clinics & Nursing Homes, Annual Fees 187
Closed Loop Heat Exchange Well 207
Closed Loop Heat Exchange Wells 222
Closing the Auction 136
Clothing, Residential Care Facility 69
Collaborative Practice Agreement, Pharmacotherapy 191
Combination Log 140
Communication Requirements, Children's Therapeutic Outdoor Programs 101
Communication Support System, Children's Therapeutic Outdoor Programs 101
Communications, Children's Therapeutic Outdoor Programs 101
Complainant 140
Complaint 140
Complaint Investigation, Basis, Time Requirements, Notifying Foster Parents, Contents, & Process, Children's Agencies 73
Complaint Investigation, Inspections 119
Complaints Against Foster Homes, Children's Residential Care Facilities & Children's Agencies 58
Completion of a Well, Construction of Cold Water Wells 224
Completion of Form 158
Compliance 126
Compliance Required, Residential Care Facility 60
Compliance With Applicable Laws, Children's Residential Care Facilities 77
Compliance With Gross Scale Determination, Payment for Logging or Hauling 141
Conditions Limiting Restraint Use, Residential Care Facility, Non-violent Physical Intervention 69
Conductor Pipe 207
Confidentiality & Privacy Protections Of Persons Served, Residential Care Facility 62
Confidentiality of Tickets 272
Confining Layer 208
Consolidated Formations 208
Construction & Safety Standards 33
Construction Of Cold Water Wells 213
Construction Of Low Temperature Geothermal Resource Wells & Bonding 226
Consultation 127
Consumer Confidence Report 287
Contaminant 208
Contamination 208
Content Of Child's Record, Residential Care Facility 65
Contingency Reserve 264
Continued Care 52, 62
Continuing Competence 159
Contraband 52
Contraband, Children's Residential Care Facilities 84
Contraband, Children's Therapeutic

Outdoor Programs 105
Contract 133
Control Of Lead & Copper 287
Controlled Substance for Wholesalers &
Distributors, Annual Fees 187
Conversion Factors 143
Conversion of Forest Lands 126
Conversion to Gross Decimal "C" or
Gross Cubic Volume 143
Converting an Artificial Openings or
Excavations Not Constructed as a
Well for Use as a Well 232
Cooperative Scaling 144
Corrective Action & Fees, Applications
for License or Certification 56, 77
Corrective Action for Non-
Compliance. 61
Correspondence Policy, Residential
Care Facility 69
CPR & First Aid, Children's Residential
Care Facilities 82
Criminal Penalties 118
Cubic Volume 142
Current Practice Experience 167
Cutting Unit 133

D

Daily Physical Assessment, Children's
Therapeutic Outdoor Programs 103
Dairy Farm Best Management
Practices 283
Damaged Drugs, Pharmacies 183
Dangerous Drugs, Pharmacies 183
Day Care 52
Day Care Center 52
Death Of A Child In Care Notification,
Residential Care Facility 60
Decimal "C" 140
Decommissioned (Abandoned)
Well 208
Decommissioning (Abandoning) of
Wells, Construction of Cold Water
Wells 223
Definition - Pharmacy Technician 194
Definitions 123, 133
Definitions, Breakopen Instant Ticket
Games 278
Definitions, General Instant Ticket
Game Operating Rules 267
Definitions, IDAPA 06.06.02, Rules
Governing Standards For Child Care
Licensing 51
Definitions, IDAPA 16.06.14, Rules

Governing The Prevention Of
Minors' Access To Tobacco
Products 113
Definitions, IDAPA 20.06.02, General
Rules, Licensing, & Check Scales Of
The Idaho Board Of Scaling
Practices 140
Definitions, IDAPA 37.03.09, Well
Construction Standards Rules 206
Definitions, IDAPA 39.03.45, Rules
Governing Sale Of No Longer Useful
Or Usable Real Property 252
Definitions, IDAPA 52.01.02, Gaming
Rules Of The Idaho State Lottery
Commission 254
Definitions, On-Line Computer
Games 272
Delegation of Services (DOS)
Agreement 155
Delineation Of Job Responsibilities 61
Delivery Requirements, Delivery Sale
Additional Requirements 117
Delivery Sale 113
Delivery Sale Additional
Requirements 117
Delivery Service 113
Denial of Application 57
Dental Services, Residential Care
Facility 68
Department 133
Department Notified of Violation 118
Department or Department of Juvenile
Corrections (DJC) Placed
Individuals 62
Description of Corrosion Control
Treatment Requirements, Control of
Lead & Copper 287
Description Of Services, Residential
Care Facility 62
Determination of Winners 269
Development Credits 133
Dewatering Well 208
Diapering & Sanitation, Children's
Residential Care Facilities 81
Direct Care Staff 52
Direct Care Staff Qualifications,
Children's Residential Care
Facilities 76
Direct Care Staff Supervisor
Qualifications, Children's Residential
Care Facilities 75
Direct Sale 113

Direct Sales 134
Director 133
Disability of Prize Winner 267
Disaster Drill 78
Discharge of All Liability upon
Payment 271
Disciplinary Proceedings & Notification
Of Change 161
Disclosure 272
Disinfection 208
Disinfection & Contamination,
Construction of Cold Water
Wells 225
Display of Sign, Permittee
Responsibilities 116
Disposable Paper Card 255
Disposal of Unused Medication,
Children's Residential Care
Facilities 83
Disposal of Unused Medication,
Children's Therapeutic Outdoor
Programs 104
Disposition Of Applications 56
Disputed Prizes 267
Distances From Contaminate Sources,
Health Standards 229
Distribute 113
Distribution of Tickets, On-Line
Computer Games 273
Distribution of Veterinary Drugs,
Veterinary Drug Orders 185
Documentation of Care Prior to
Eighteenth Birthday 62
Documentation of Need for Continued
Care 62
Documentation, General Ledger 258
Domestic Water Pumps, Fees For
Electrical Inspections 21
Draw Down 208
Drawings & End of Sales Prior to
Drawings, On-Line Computer
Games 274
Drilling Fluids or Drilling Additives,
Construction of Cold Water
Wells 225
Drilling Permit Requirements 231
Drive Point (also known as a Sand
Point) 209
Drug Orders, Veterinary 185
Duck Race 255
Due June 1, Annually -- Table,
Fees 186

Duration, Locked Seclusion, Children's Residential Care Facilities 87
Duty of Purchaser 128

E

Education & Experience
 Requirements 170
Education Policy, Residential Care Facility 70
Education Program, Children's Residential Care Facilities 81
Effect of a Permit, Drilling Permit Requirements 231
Effect of Game Rules 267
Effect Of Previous Revocation Or Denial Of A License 59
Effective Date 124
Effective Training 113, 116
Electric Signs & Outline Lighting, Fees For Electrical Inspections 22
Electrically-Driven Irrigation Machine, Fees For Electrical Inspections 22
Electrolyte Replacement, Children's Therapeutic Outdoor Programs 103
Electronic Bingo Device 255
Electronic Gambling 255
Emergency Drills, Children's Residential Care Facilities 78
Emergency Evacuation Plan, Children's Agencies 74
Emergency Forest Practices 128
Emergency Plan, Children's Therapeutic Outdoor Programs 101
Emergency Policies, Residential Care Facility 70
Emergency Procedures, Children's Residential Care Facilities 78
Employee & Volunteer Orientation, Residential Care Facility 64
Employee & Volunteer Training, Residential Care Facility 64
Employee Investigated, Notification To The Licensing Authority No Later Than One Day 60
End of Transition Period 124
Endangers Health or Safety 59
Enforcement Remedy Of Ban On Admissions 59
Enforcement Remedy Of Summary Suspension & Transfer Of Residents 59
Enforcement Remedy Revocation Of License And Transfer Of

Residents 59
English Language 152, 157
Environmental Hazards, Children's Therapeutic Outdoor Programs 101
Equipment Storage, Children's Residential Care Facilities 79
Equivalency Policy 172
Establishment of General Ledger 258
Evidence of Effective Training 113
Examination Requirement 169
Exemptions From Licensure, Licensing & Certification 55
Existing Residential 25, 41
Expedition & Hiking Limit Requirements, Children's Therapeutic Outdoor Programs 102
Expedition Evaluations, Children's Therapeutic Outdoor Programs 100
Expeditions, Children's Therapeutic Outdoor Programs 100
Expeditious Correction 61
Expiration Date

Schedule II Prescription Order 197

Expiration of Permits, Fees For Electrical Inspections 22
Exploratory Well 209
Explosives, Construction of Cold Water Wells 225
Extreme Circumstances 133

F

Failure to Complete Application Process 57
Failure to Provide Information, Information to be Provided in Application 260
Family Day Care Home 53
Fee Collection 17
Fee Non-Refundable 174
Fee Schedule 25
Fees 33, 174, 176, 178
Fees - License Issuance, Renewal, Cancellation & Reinstatement 163
Fees For Electrical Inspections 20
Fees For HVAC Inspections 40
Fees for Temporary Amusement/ Industry Electrical Inspections, Fees For Electrical Inspections 22
Fees, Drilling Permit Requirements 232
Field Director, Qualifications,

Children's Therapeutic Outdoor Programs 96
Field Treatment, Children's Therapeutic Outdoor Programs 103
Figure 01. Concrete Slabs and Finished Grade. 233
Figure 05. Sealing Requirements in Unconsolidated Formation without Confining Layers. 237
Figure 07. Sealing Requirements in the Rathdrum Prairie. 239
Figure 08. Sealing Requirements in Unconsolidated Formations with Confining Layers. 240
Figure 09. Sealing Requirements for Artesian Wells in Unconsolidated Formations. 241
Figure 10. Sealing Requirements for Artesian Wells in Consolidated Formations. 242
Figure 11. Access Ports, Pressure Gauges, and Control Valves. 243
Figure 12. Well Cap and Access Port. 244
Figure 13. Casing Segments for Low Temperature Geothermal Wells. 245
Fire Drills 78
Fire Extinguishers, Children's Residential Care Facilities 78
Fire Inspection, Applications for License or Certification 56, 77
Fire Safety Requirements, Children's Residential Care Facilities 77
Fire, Notification To The Licensing Authority No Later Than One Day 60
Firearms, Children's Residential Care Facilities 80
Firearms, Children's Therapeutic Outdoor Programs 108
Firewood & Personal Use Product Permits 134
First Aid Kit, Children's Residential Care Facilities 83
First Aid Kit, Children's Therapeutic Outdoor Programs 101
First Aid, Children's Therapeutic Outdoor Programs 103
Flammable Liquids, Children's Residential Care Facilities 80
Food Sanitation Standards, Children's

Residential Care Facilities 78
Forest Products 133
Foster Care 53
Foster Home 53
Foster Parent 53

G

General Instant Ticket Game Operating Rules 267
General Ledger 258
General Ledger & Recordkeeping, Raffle 259
General Provisions 263
General Provisions, Drilling Permit Requirements 231
General Qualifications For Licensure 149
General Rules, IDAPA 20.02.01, Rules Pertaining To The Idaho Forest Practices Act 126
General Safety Provisions, Children's Residential Care Facilities 80
General Scaling Requirements 143
Global Positioning System (GPS) 209
Global Positioning System (GPS), Children's Therapeutic Outdoor Programs 100
Governing Body Required 61
Governing Law 271
Graduate Physician Assistant 155
Graduation Required 167
Granules (also Granular) 207
Gross Decimal "C" Scale Determination 143
Gross Revenues 256
Gross Scale 140
Gross Scale Determination, Payment for Logging or Hauling 141
Gross Volume Conversions 143
Gross Weight 140
Ground-Based Yarding 133
Grounds for Discipline 161
Group Day Care Facility 53
Grouping By Age, Children's Therapeutic Outdoor Programs 100
Guarantee of Payment 136

H

Hard Cards 256
Hazardous Material Defined, Transportation of Hazardous Material by Rail 199
Hazardous Materials Or Toxins,

Children's Residential Care Facilities 79
Health Care Standards, General Qualifications for Licensure 150
Health Care, Children's Therapeutic Outdoor Programs 103
Health Services, Residential Care Facility 68
Health Standards 229
Heating, Children's Residential Care Facilities 79
High Adventure Activities Leader, Children's Therapeutic Outdoor Programs 95
High Adventure Activity Policy & Procedures, Children's Therapeutic Outdoor Programs 95
High Adventure Requirements, Children's Therapeutic Outdoor Programs 94
Holding Check Scale Log Loads 144
Hospitals Without Pharmacy, Annual Fees 187
Host System 256
House Parent Relief Staff, Children's Residential Care Facilities 76
Human Resources Needed, Residential Care Facility 63
Hydraulic Conductivity 209
Hydraulic Fracturing 209
Hydraulic Fracturing, Construction of Cold Water Wells 225

I

Identification 159
Identification of Pharmacy Technicians 196
Inability or Refusal to Hike, Children's Therapeutic Outdoor Programs 102
Inactive License Fee 178
Incorporated Nonprofit Organizations, Information to be Provided in Application 260
Independent Audit Of Large Raffles 259
Individuals Not Placed by Department or DJC 62
Informal Hearing 140
Information To Be Provided In Application, Licensing 259
Information Under Oath 183
Initial & Subsequent Family Foster Home Evaluation Study Process &

Contents, Children's Agencies 73
Initial Deposit 136
Initial Deposit & Bonds 136
Initial License Fee 178
Initial Service Plan 66
Injection Well 209
Injection Wells, Construction of Cold Water Wells 222
Injured Child, Notification To The Licensing Authority No Later Than One Day 60
Inspection Fees 37
Inspection Requirements 37
Inspections 33, 118
Installation, Inspection Requirements 37
Installment Payments For Commercial Vehicle Registration 247
Instant Bingo 256
Instant Games Ticket Price 268
Insurance Coverage, Residential Care Facility 61
Intake Policy, Residential Care Facility 62
Inter-Country Adoption 53
Intermediate String or Casing 209
Intern Application & Permit Fee 178
International Medical Graduate 151
Intervention Documentation, Residential Care Facility, Non-violent Physical Intervention 69
Intervention Time Guidelines, Non-violent Physical Intervention 69
Intervention Training Requirements, Non-violent Physical Intervention 69
Issuance of Citation or Report, Inspections 119
Issuance of Licenses 261

L

Labeling, Card Manufacturers Standards 261
Law Enforcement Agency Inspections 118
Law Enforcement Notification, Children's Therapeutic Outdoor Programs, Contraband 105
Lead Service Line Replacement Requirements, Control of Lead & Copper 287
Left Side, Load Overhang 250
Length 133

Length Appraisal 135
Length to Volume Conversion Table for
Western Red Cedar Poles 135
License 256
License Application & Exam & Re-
Examination Fee 178
License by Reciprocity 185
License Cancellation 164
License From Another State or
Territory, Licensure by
Endorsement 167
License Renewal Fee 164
License Required for Each Facility,
Minimum Required Information for
Licensure 184
License Year & Fiscal Year,
Information to be Provided in
Application 260
Licensed Game Operator 256
Licensed Vendor 256
Licensing & Certification 55
Licensing & Certification Agency
Policies & Procedures For Foster
Homes 72
Licensing Authority 53
Licensing Examination, Licensure by
Endorsement 167
Licensure By Endorsement 152
Licensure by Endorsement 169
Licensure by Examination 169
Licensure By Written Examination For
Graduates Of Medical Schools
Located Outside Of The United States
& Canada 151
Lighting, Children's Residential Care
Facilities 79
Limitation Of Involvement By For-
profit Businesses 260
Limitation on Breakopen Instant Ticket
Dispensing 280
Liner 209, 217
Live Attendance, Amount of Continuing
Pharmacy Education 180
Load Identification 143
Load Overhang 250
Local Option, Licensing &
Certification 55
Location 114
Locations, Information to be Provided in
Application 260
Locked Seclusion Log, Children's
Residential Care Facilities 87

Locked Seclusion Room Requirements,
Children's Residential Care
Facilities 88
Locked Seclusion, Children's
Residential Care Facilities 87
Log Brands 140
Lottery 256
Lottery Budgets & Financial
Statements 264
Lottery Commission, General
Provisions 263
Lottery Offices 264

M

Maintain All Other Separation
Distances 230
Maintenance 229
Maintenance Of Records, Residential
Care Facility 68
Maintenance, Children's Residential
Care Facilities 79
Manufactured Homes 33
Manufacturer 256
Maps & Itinerary, Children's
Therapeutic Outdoor Programs 102
Maximum Amount of Sawlogs 134
Maximum License Fee Schedule For
Commercially Used Weighing &
Measuring Instruments &
Devices 16
Maximum Prizes 259
Maximum Temperature, Children's
Therapeutic Outdoor Programs 102
Measurement 133
Mechanical Restraint 53
Mechanical Restraint Log, Children's
Residential Care Facilities 89
Mechanical Restraint Use as a Last
Resort, Children's Residential Care
Facilities 88
Mechanical Restraint, Children's
Residential Care Facilities 88
Medical Professionals 53
Medical Special Needs, Children's
Therapeutic Outdoor Programs 99
Medication Changes, Children's
Therapeutic Outdoor Programs 104
Medication Storage & Administration,
Children's Residential Care
Facilities 82
Medication Storage & Administration,
Children's Therapeutic Outdoor
Programs 104

Member of the Household 53
Method Of Sale For Property 252
Method Of Scaling Forest Products For
Commercial Purposes 142
Mileage Charges 17
Mineralized Water 209
Minimum Charitable Or Nonprofit
Donation 258
Minimum Required Information For
Licensure 183
Minimum Requirements, Licensure by
Endorsement 167
Minimum Standards 123
Minor 114
Misrepresented or Omitted
Information 59
Mobile Home Parks & RV Parks 26
Mobile Homes 26
Mobile/Manufactured Homes, Fees For
Electrical Inspections 21
Monitoring Requirements for Lead &
Copper in Source Water, Control of
Lead & Copper 288
Monitoring Requirements for Lead &
Copper in Tap Water, Control of Lead
& Copper 288
Monitoring Requirements for Water
Quality Parameters, Control of Lead
& Copper 288
Monitoring Well 209
Monitoring Wells, Construction of Cold
Water Wells 222
Multiple Chapters Licensed Together,
Bingo/Raffle 260
Multipurpose Residential Fire Sprinkler
& Domestic Water Supply System
Fee 27

N

National Certifying Examination 157
National Electrical Code Compliance,
Children's Residential Care
Facilities 77
Neat Cement 209
Neat Cement Grout 210
Net Appraised Value 133
Net Decimal "C" Scale
Determination 143
Net Proceeds of a Charitable
Raffle 256
Net Sale Value 133
Net Scale 140
New Construction 230

- New Residential - Multi-Family Dwellings 25, 40
New Residential - Single Family Dwelling 25
New Residential - Single Family Dwelling, Fees For Electrical Inspections 20
New Residential - Single-Family Dwelling 40
No Prescribing Authority 161
No Progress to Meet Plan of Correction 59
Nonaccredited Residential School 53
Non-ACPE Approved, Amount of Continuing Pharmacy Education 180
Non-Compliance 53
Non-Pharmacy, Annual Fees 187
Nonprofit Organization 257
Nonrenewal, Denial, Revocation, Or Suspension Of License Or Certification 58
Non-Residential 27
Nonresidential Sewer & Water Service Lines Permit Fees 27
Non-violent Physical Intervention, Residential Care Facility 68
Not in Substantial Compliance 59
Notice of Intended Actions 261
Notification Exception 128
Notification of Change or Addition of Supervising Physician 162
Notification of Forest Practice 127
Notification To The Licensing Authority No Later Than One Day 60
Notification To The Licensing Authority, Residential Care Facility 60
Number & Value of Instant Ticket Prizes 269
Number Of Sessions Per Week 258
Nutrition, Children's Residential Care Facilities 83
Nutritional & Sanitary Requirements, Children's Therapeutic Outdoor Programs 103
- O**
- Observation, Locked Seclusion, Children's Residential Care Facilities 87
Official End of Game 272
Official Seal 140
Official Start of Game 269
On-Line Computer Games 272
On-Line Games -- Authorized -- Director's Authority 272
On-Line Games Criteria 273
On-Site Review 160
Open Meeting Law 263
Opening the Auction 136
Option to Manufacture 135
Option to Manufacture Sawlogs 135
Oral Orders, Veterinary Drugs 186
Organization 53, 257
Organizational Chart, Policies & Procedures 61
Original License Fee 174
Other Conversion Factors 143
Other Installations Including Industrial & Commercial 26, 41
Other Installations Including Industrial & Commercial, Fees For Electrical Inspections 21
Other Scaling Methods 142
Out-of-State Mail Service, Annual Fees 187
Owners Responsibilities for Well Use & Maintenance 229
Ownership of Lottery Tickets 266
Ownership Of Prizes 259
Oxidized Sediments 210
- P**
- Packet Assembly, Card Manufacturers Standards 261
Paper Bingo Card Manufacturers Standards 261
Participant Clothing, Equipment & Supplies, Children's Therapeutic Outdoor Programs 105
Participant De-Briefing, Children's Therapeutic Outdoor Programs 101
Pat Down Searches, Children's Residential Care Facilities 84
Pat Down Searches, Children's Therapeutic Outdoor Programs 106
Payment For Logging Or Hauling 141
Payment Of Expenses, Winnings, & Charitable Contributions 258
Payment of Fines 118
Payment of Prizes 269
Payment of Prizes by On-Line Retailers 277
Payment of Prizes to Persons Under Eighteen Years of Age 271
Payment of Prizes to Persons Under Eighteen Years of Age, On-Line Computer Games 277
Payment of Prizes, On-Line Computer Games 274
Penalties 233
Perforated Well Casing 210
Performance Bond 136
Permanent Register, Residential Care Facility 65
Permit 114
Permit Endorsement 114
Permit Requirements 117
Permits, Application for Permit 115
Permittee 114
Permittee Responsibilities 116
Person Filling More Than One Position 64
Personal Interview 157
Personal Possessions, Allowance, & Money Policy, Residential Care Facility 70
Personnel Charges 17
Pharmacies 181
Pharmacist License, Annual Fees 186
Pharmacy Law, Amount of Continuing Pharmacy Education 180
Pharmacy Technician Ratio 195
Pharmacy Technicians 194
Pharmacy, Annual Fees 186
Photographic Identification 114
Physical - Medical 44
Physical Capability, Children's Therapeutic Outdoor Programs 102
Physical Examination Availability, Children's Therapeutic Outdoor Programs 100
Physical Examination, Children's Therapeutic Outdoor Programs 99
Physical Intervention 53
Physician Assistant Trainee 156
Pitless Adapters, Construction of Cold Water Wells 224
Pitless Adaptor or Pitless Unit 210
Placement 53
Placement Agreement Required Contents, Children's Agencies 73
Placement Emergency Change, Children's Agencies 74
Placement Service Termination, Children's Agencies 74

- Plan Check Fee 41
Plan Check Fee, Fees For Electrical Inspections 22
Plan Checking Fee 26
Plan of Correction 53
Planning & Zoning, Applications for License or Certification 56
Pole Specifications 136
Poles within Sawlog Sale 134
Policies & Procedures, Children's Therapeutic Outdoor Programs 94
Possession of Permit 116
Potable Water 210
Powers & Duties of the Commission, General Provisions 263
Powers & Duties of the Director 264
Practical Examination 142
Preadmission Assessment, Children's Therapeutic Outdoor Programs 99
Premature Termination Policy 137
Prened Insurance 123
Prescription Forms 163
Prescription Medication, Children's Therapeutic Outdoor Programs 104
Prescription Reporting 187
Pressure Grouting (Grouting) 210
Prior Physical Examination, Children's Therapeutic Outdoor Programs 99
Prize Logs 141
Prize Rights Unassignable 271
Prize Rights Unassignable, On-Line Computer Games 277
Prize Structure, Breakopen Instant Ticket Games 281
Prize Structures 268
Prizes Payable After Death of Winner 267
Prizes Payable After Death or Disability of Owner 271
Prizes Payable After Death or Disability of Owner, On-Line Computer Games 278
Procedures, Physical - Medical 44
Processing Orders as Written, Veterinary Drug Orders 186
Processing Veterinary Drug Orders 185
Product Classification 141
Production String 210
Program Consultants, Qualifications, Children's Therapeutic Outdoor Programs 97
Program Description, Children's Agencies 72
Program Summary, Children's Therapeutic Outdoor Programs 108
Prohibition of Prone Restraints 69
Proper Identification, Information to be Provided in Application 260
Proper Seating of Children & Adults, Children's Therapeutic Outdoor Programs, Transportation 108
Protection From Harm to Self or Others, Non-violent Physical Intervention 69
Psychotropic Medication, Children's Residential Care Facilities 82
Psychotropic Medication, Children's Therapeutic Outdoor Programs 104
Public Education & Supplemental Monitoring Requirements, Control of Lead & Copper 288
Public Health District Inspection, Children's Residential Care Facilities 78
Public Sale 252
Public Supply, Health Standards 229
Public Water System 210
Pulp 133
Pumps (Water/Domestic Water/Irrigation, Sewage) Each Motor, Fees For Electrical Inspections 21
Purchaser 114, 133, 141
Purchaser's Option 135
Purpose, General Provisions 263
- Q**
- Qualification, Service Worker Position & Qualifications, Children's Agencies 71
Qualifications For Licensure By Endorsement 167
Quality Of Services Environment, Residential Care Facility 61
- R**
- Raffle 257
Random & Unannounced Inspections 118
Random Unannounced Inspection 114
Real Property 252
Recognition of Federal Exemptions, Transportation of Hazardous Material by Rail 199
Record Keeping 163
Record Retention, Residential Care Facility 68
Recording Measurements on Scale Tickets 143
Records Management, Maintenance, Availability To Foster Parent, & Contents 74
Recreation, Physical Exercise, & Leisure Time Activities, Children's Residential Care Facilities 81
Reduced Sediments 211
Re-Exam Fee 174
Refusal to Allow Access 59
Regions Divided Into Forest Types 128
Registration of Pharmacy Technician 196
Relative 54
Relicense Check Scale 141
Religious & Culture Policy, Residential Care Facility 70
Remediation Well 211
Renewal of Permit, Application for Permit 116
Repair of Wells, Low Temperature Geothermal Resource Wells & Bonding 228
Repeat Violations 59
Reporting Change in Pharmacist-in-Charge 181
Reporting Of Child Abuse & Neglect, Residential Care Facility 68
Reporting Requirements, Control of Lead & Copper 288
Representative 54
Request, Timber Sale Termination 137
Requested Check Scale 141
Requested Inspections 26, 41
Requested Inspections, Fees For Electrical Inspections 22
Required Staff Ratios, Children's Residential Care Facilities 76
Requirements for Bidding 136
Requirements for Cedar Pole Sale 134
Requirements For Donation To Charity-Limitation On Expenses, Raffle Tickets 259
Requirements For License 169
Requirements For Licensure 157
Requirements for Renewal 159
Requirements to Participate in Installment Payments 247

- Requirements, Physical - Medical 44
Research Protections For Persons
Served, Residential Care Facility 61
Researcher, Analytical Lab, Annual
Fees 187
Residence 149, 152, 157
Residential 26
Residential Electric Space Heating &
Air Conditioning, Fees For Electrical
Inspections 21
Residential School 54
Respondent 141
Responsibilities of the Foster Parent or
Operator, Licensing &
Certification 55
Responsibility of Pharmacist
Manager 181
Responsibility of Pharmacy &
Pharmacist -- Assignment of
Functions, Pharmacy
Technicians 194
Responsibility of Pharmacy
Technicians 195
Restraint 54
Restraint Type, Mechanical Restraint,
Children's Residential Care
Facilities 89
Retail Drawings 265
Retail Sales Minor Exempt Permit 114
Retail Ticket Price Discounts 265
Retail Veterinary Drug Outlet - Retail or
Retail/Wholesale, Annual Fees 187
Retailer Application & Fee, Breakopen
Instant Ticket Games 281
Retailer Duties, On-Line Computer
Games 276
Retailer Settlement, On-Line Computer
Games 277
Retailers Eligible to Sell Breakopen
Tickets 281
Retention of Drug Orders for Inspection,
Veterinary Drug Orders 185
Retention of Records, General
Ledger 258
Return of Drugs or Other Items,
Pharmacies 181
Reusable Bingo Cards 257
Revisits, Relicenses &
Recertifications 58
Right Side, Load Overhang 250
Roads 133
Routine Check Scale 141
- S**
- Safety, Children's Therapeutic Outdoor
Programs 101
Sale of Lottery Tickets 267
Sale of Tickets 268
Sale of Tickets, On-Line Computer
Games 273
Sale Or Exchange Of Property To Tax
Supported Entities At The Appraised
Value 252
Salvage Sales 134
Sand 211
Sanitation Inspection, Applications for
License or Certification 56, 77
Scaling 134
Screen 217
Screen (Well Screen) 211
Scribner Decimal "C" 142
Scribner Decimal "C" Board Foot
Measure 134
Seal or Sealing 211
Sealing Artesian Wells 221
Sealing of Casing, Low Temperature
Geothermal Resource Wells &
Bonding 228
Sealing of Wells 219
Sealing, Children's Residential Care
Facilities 84
Searches, Children's Therapeutic
Outdoor Programs 105
Seclusion 54
Secure 54
Security Risk 54
Self-Supervision Prohibited, Children's
Agencies 72
Seller 114
Selling or Distributing Without a
Permit 118
Senior Field Staff, Qualifications,
Children's Therapeutic Outdoor
Programs 96
Separate Bank Account 257
Serial Numbers, Card Manufacturers
Standards 261
Service Plans & Participants, Children's
Agencies 75
Service Plans, Residential Care
Facility 66
Service Sink, Children's Residential
Care Facilities 79
Service Worker 54
Service Worker Or Social Worker 63
- Service Worker Position &
Qualifications, Children's
Agencies 71
Service Worker Supervisor Position,
Children's Agency 71
Service Worker Supervisor
Qualifications, Children's Residential
Care Facilities 75
Session 257
Sewer & Water Permit Fees, Fee
Schedule 27
Shelter Care 54
Shelter Care Admission & Plans,
Residential Care Facility 67
Shipping Package Requirements,
Delivery Sale Additional
Requirements 117
Site System 257
Skills & Training, Children's
Therapeutic Outdoor Programs,
Staff 97
Sleep, Children's Residential Care
Facilities 81
Sleeping Rooms, Children's Residential
Care Facilities 79
Social Worker 54
Social Worker Or Service Worker
Responsibilities, Children's
Agencies 72
Social Worker Position &
Qualifications, Children's
Agencies 71
Soft Restraints 54
Source Water Treatment Requirements,
Control of Lead & Copper 287
Special Committee 257
Special Drawings 265
Special Permit 257
Special Standards for Construction of
Wells When Mineralized or
Contaminated Water is Encountered,
Health Standards 229
Staff De-Briefing, Children's
Therapeutic Outdoor Programs 101
Staff Health Requirements, Children's
Therapeutic Outdoor Programs 97
Staff Qualifications For Children's
Therapeutic Outdoor Programs 95
Staff Ratios & Group Size, Children's
Therapeutic Outdoor Programs 98
Staff Recruitment, Hiring, Supervision,
Training, Evaluation, Promotion &

Discipline, Residential Care Facility 63
Staff Training, Children's Residential Care Facilities 77
Staff Use Of Alcohol Or Controlled Substances Prohibited 98
Staff Workloads, Children's Agencies 72
Staff-Child Ratio-Daytime, Children's Residential Care Facilities 76
Staff-Child Ratio-Sleeping Hours, Children's Residential Care Facilities 76
Standard License Examination 141
Standard Physical Examination Requirements, Children's Therapeutic Outdoor Programs 99
Standards for Flares, Breakopen Instant Ticket Games 280
Start Card 211
State 134
Static Water Level 211
Stolen or Lost Tickets 267
Storage Of Poisonous & Toxic Materials, Children's Residential Care Facilities 80
Strip Searches are Prohibited, Children's Residential Care Facilities 84
Strip Searches are Prohibited, Children's Therapeutic Outdoor Programs 106
Stumpage & Interest Payment 137
Subsequent Assessments, Children's Therapeutic Outdoor Programs 99
Substituting Education for Experience 171
Substituting Experience for Education 171
Substituting Experience for Experience 171
Sufficient Financial Resources, Residential Care Facility 63
Suicide Prevention Plan, Residential Care Facility 69
Supervising Physician 156
Supervision Of Recreational Activity, Children's Residential Care Facilities 82
Supervision, Pharmacy Technician 195
Supervisor to Staff Ratio, Children's

Agencies 72
Surface Casing 211
Surplus Property Value Estimate 252
Suspension For Circumstances Beyond Control Of Operator 58
Suspension Or Revocation For Infractions 58

T

Table - Ammonia Control Practices for Idaho Dairies 283
Team Scaling 144
Technical Service Fee 27
Technician on Site, Inspection Requirements 37
Telephone Orders, Veterinary Drugs 186
Temporary Construction Services, Fees For Electrical Inspections 20
Temporary Permit Check Scale 141
Temporary Surface Casing 211
Thermoplastic/PVC Casing 211
Ticket Validation Requirements 270
Timber Sale Auctions 136
Timber Sale Cancellation 137
Timber Sale Contract Signatures 136
Timber Sale Termination 137
Timber Sales 134
Time & Place of Meetings 263
Time-Out 54
Time-Out, Children's Residential Care Facilities 86
Time-Out, Children's Therapeutic Outdoor Programs 107
Tobacco Product 114
Topics Approved by the Commission, Approved Topics for Continuing Education 201
Topics Not Eligible for Continuing Education Credits, Approved Topics for Continuing Education 202
Tracking 257
Trained Staff, Children's Therapeutic Outdoor Programs, Medication Storage & Administration 104
Training 54
Training, Children's Agencies 73
Transition Rules 123
Transitional Living 54
Transmissivity 211
Transportation Of Children In Restraints Prohibited, Children's Residential Care Facilities 91

Transportation Of Hazardous Material By Rail 199
Transporting Children, Children's Therapeutic Outdoor Programs 108
Transporting Children, Residential Care Facilities 83
Tremie Pipe 211
Tuberculosis Screening, Residential Care Facility 64

U

Ultimate 1980 CSO 123
Unauthorized Absences, Residential Care Facility 60
Unclaimed Prize Money 272
Unconfined Aquifer 211
Unconsolidated Formation 211
Universal Precautions, Children's Residential Care Facilities 83
Unlocked Seclusion, Children's Residential Care Facilities 86
Unstable Unit 211
Unusable Well 211
Unusable Wells 230
Unusual Incident Policy, Children's Agencies 75
Updated Service Plan 67
U-Pick Ems 257
Use 229
Use of Approved Sealing Materials & Required Annular Space 217
Use Of Tobacco Products, Alcohol, & Illegal Drugs Prohibited, Children's Residential Care Facilities 83

V

Valid Check Scale 143
Validation Requirements, On-Line Computer Games 275
Valuation Interest Rate Standards 123
Valuation Method Standards 123
Valuation Mortality Standards 123
Variance 54
Vending Machine 115
Vendor 257
Vendor Assisted Sales 115
Veterinary Drug Orders 185
Veterinary Drug Technician, Annual Fees 187
Veterinary Orders for Legend Drugs 185
Violation 115
Violation of Provisional License 59

Violations by the Permittee, Civil
Penalties for Violation of
Permit 117
Violations by the Seller, Civil Penalties
for Violation of Permit 117
Visibility 116
Visitation Policy, Residential Care
Facility 69
Voluntary Agreement 62
Volunteer Supervision 64

Written Bylaws, Residential Care
Facility 61
Written Exam Fee 174
Written Examination 141
Written Notification of Election 124
Written Scaling Specifications 141,
143
Written Transcripts & An Individual
Education Plan (IEP), Children's
Residential Care Facilities 81

W

Waiver 55, 212
Waste 212
Water Caches, Children's Therapeutic
Outdoor Programs 102
Water Conditioners 27
Water for Cooling, Children's
Therapeutic Outdoor Programs 102
Water From A Natural Source,
Children's Therapeutic Outdoor
Programs 103
Water Front, Children's Residential
Care Facilities 82
Water Requirements, Children's
Therapeutic Outdoor Programs 102
Water Table 212
Weekly Physical Assessment,
Children's Therapeutic Outdoor
Programs 103
Well 212
Well Development 212
Well Driller or Driller 212
Well Drilling or Drilling 212
Well Owner 212
Well Owner Bonding, Low
Temperature Geothermal Resource
Wells & Bonding 227
Well Rig (Drill Rig) 213
Wells Posing a Threat to Human Health
& Safety or Causing Contamination
of the Ground Water Resource 230
Where to Obtain an Application for
Permit, Application for Permit 115
Who Will Inspect 118
Wholesaler (Distributor), Annual
Fees 187
Wilderness First Responder (WFR),
Children's Therapeutic Outdoor
Programs 100
Without a Permit 115
Work, Children's Residential Care
Facilities 81