

# IDAHO ADMINISTRATIVE BULLETIN

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# Preface

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

*State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Notice of Rulemaking published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.*

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007; Bulletin 08-1 refers to the first Bulletin issued in calendar year 2008. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 08-1 refers to January 2008; Volume No. 08-2 refers to February 2008; and so forth. Example: The Bulletin published in January 2008 is cited as Volume 08-1. The December 2007 Bulletin is cited as Volume 07-12.*

## **RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE**

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are only published in the Bulletin and **not** printed in the Administrative Code.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

## **TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN**

*The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.*

### **NEGOTIATED RULEMAKING**

*Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.*

### ***PROPOSED RULEMAKING***

*A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:*

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) the deadline for public (written) comments on the proposed rule.*

*As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date, even when published in conjunction with a temporary rule, and therefore, is not enforceable. An agency may vacate a proposed rulemaking if it decides not to proceed beyond the proposed rulemaking step, and stops the formal rulemaking process.*

### ***TEMPORARY RULEMAKING***

*Temporary rules may be adopted only when the governor finds that it is necessary for:*

- a) protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit;*

*If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.*

*A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.*

*State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.*

*An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, should rescind the temporary rule.*

### **PENDING RULEMAKING**

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

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

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

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

### **FINAL RULEMAKING**

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

*No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.*

### **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

*The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.*

## SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

*The Idaho Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

*The Idaho Administrative Code*, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes a table of contents, reference guides, and a subject index.

*Individual Rule Chapters and Individual RuleMaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

*Internet Access* - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

## HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the “IDAPA” number. (The “IDAPA” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “TITLE” number is assigned. There are “CHAPTER” numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

### **IDAPA 38.05.01.200.02.c.ii.**

“IDAPA” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

“38.” refers to the Idaho Department of Administration

“05.” refers to Title 05, which is the Department of Administrations’s Division of Purchasing

“01.” refers to Chapter 01 of Title 05, “Rules of the Division of Purchasing”

“200.” refers to Major Section 200, “Content of the Invitation to Bid”

“02.” refers to Subsection 200.02.

“c.” refers to Subsection 200.02.c.

“ii.” refers to Subsection 200.02.c.ii.

## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0801). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket number:

### "DOCKET NO. 38-0501-0801"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), Rules of the Division of Purchasing (Chapter 01).

"0801" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in calendar year 2008. A subsequent rulemaking on this same rule chapter in calendar year 2008 would be designated as "0802". The docket number in this scenario would be 38-0501-0802.

Within each Docket, only the affected sections of chapters are printed. (See Sections Affected Index in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

### (BREAK IN CONTINUITY OF SECTIONS)

## INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

*"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."*

The citation may also include the IDAPA, Title, or Chapter number, as follows"

*"...in accordance with IDAPA 38.05.01.201..."*

*"38" denotes the IDAPA number of the agency.*

*"05" denotes the TITLE number of the rule.*

*"01" denotes the Chapter number of the rule.*

*"201" denotes the main Section number of the rule to which the citation refers.*

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

*"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, "Rules Governing Capitol Mall Parking."*



**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2009**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
09-1	January 2009	<b>*November 14, 2008</b>	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	<b>**August 28, 2009</b>	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

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2010**

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10-1	January 2010	<b>*November 13, 2009</b>	January 6, 2010	January 27, 2010
10-2	February 2010	January 8, 2010	February 3, 2010	February 24, 2010
10-3	March 2010	February 5, 2010	March 3, 2010	March 25, 2010
10-4	April 2010	March 5, 2010	April 7, 2010	April 28, 2010
10-5	May 2010	April 2, 2010	May 5, 2010	May 26, 2010
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10-8	August 2010	July 2, 2010	August 4, 2010	August 25, 2010
10-9	September 2010	July 30, 2010	September 1, 2010	September 22, 2010
10-10	October 2010	<b>**August 27, 2010</b>	October 6, 2010	October 27, 2010
10-11	November 2010	October 1, 2010	November 3, 2010	November 24, 2010
10-12	December 2010	November 5, 2010	December 1, 2010	December 22, 2010

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

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

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**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2009-09**

**REESTABLISHING THE EXPERIMENTAL PROGRAM TO STIMULATE  
COMPETITIVE RESEARCH COMMITTEE WITHIN THE STATE BOARD OF EDUCATION  
REPEALING AND REPLACING EXECUTIVE ORDER 2006-36**

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*WHEREAS, the Idaho Experimental Program to Stimulate Competitive Research (EPSCoR) program has proven to be vital to the science and research institutions of Idaho; and*

*WHEREAS, the EPSCoR program is directly responsible for over \$157 million dollars in research return dollars to Idaho universities; and*

*WHEREAS, the EPSCoR Committee, responsible for administering the EPSCoR program, has a 24 year history of advancing research and development opportunities and championing education and science in Idaho's institutions; and*

*WHEREAS, independence from all Idaho institutions of higher learning creates the best environment for objective science and research based judgment; and*

*WHEREAS, the EPSCoR Committee would benefit from the oversight within the State Board of Education;*

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

*(1) The Experimental Program to Stimulate Competitive Research Committee (EPSCoR Committee) be relocated and reestablished within the State Board of Education.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 12th day of May in the year of our Lord two thousand and nine and of the Independence of the United States of America the two hundred thirty-third and of the Statehood of Idaho the one hundred nineteenth.*

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**C.L. "BUTCH" OTTER  
GOVERNOR**

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**BEN YSURSA  
SECRETARY OF STATE**

## **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

### **02.06.09 - INVASIVE SPECIES RULES**

**DOCKET NO. 02-0609-0801**

#### **NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 22-1907, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for vacating the proposed rulemaking:

In 2008, ISDA undertook the informal negotiated rulemaking process regarding the Rules Governing Invasive Species. Following the receipt of comments and several public hearings, ISDA determined that additional and significant changes needed to be made to the Proposed Rule. Therefore, ISDA withdrew the proposed rule, and has re-drafted the rule. Due to the significant changes, ISDA is vacating the existing proposed rule, and has adopted a temporary rule and has initiated proposed rulemaking on this chapter. The rewrite of this chapter is also being published in this Bulletin following this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of rulemaking, contact Brian Oakey at (208) 332-8500.

DATED this 11th Day of May, 2009.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road, Boise, ID 83712  
P.O. Box 790, Boise, ID 83701-0790  
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## **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

### **02.06.09 - RULES GOVERNING INVASIVE SPECIES**

#### **DOCKET NO. 02-0609-0901 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is May 1, 2009.

**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 and informal negotiated rulemaking procedures have been continued from 2008. The action is authorized pursuant to Section 22-1907, 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 June 17, 2009.

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.

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

Persons who participated during the informal negotiated rulemaking during 2008 should notify the Idaho State Department of Agriculture whether they wish to continue to participate in the rulemaking process. Those who have not previously participated should notify the Idaho State Department of Agriculture, in writing, of the desire to participate in the rulemaking. Written notification should include all contact information and an electronic mail or mailing address. Those providing written notification will be contacted regarding any additional scheduled meetings or hearings.

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

These rules include the determination of which species are invasive and the establishment of procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping. The rules also establish a classification system for aquatic invasive species to assist in determining priorities for eradication or control.

**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:

In 2008, ISDA initiated a negotiated rulemaking, which culminated in the adoption of a proposed rule. However, following additional input via comments and hearings, ISDA determined that additional changes needed to be made to the Rules Governing Invasive Species. Therefore, ISDA pulled the proposed rule, and it was not considered by the 2009 Idaho Legislature.

ISDA has considered the comments, as well as its authorities under Idaho law, and the needs of the state of Idaho. ISDA made significant changes to the Rules Governing Invasive Species, as proposed, and has adopted the Rules as temporary. Adoption of the temporary rule is necessary to protect the public health, safety and welfare. If aquatic invasive species, and in particular zebra and quagga mussels, are introduced into and allowed to spread in Idaho, the impacts to Idaho's waterways, including rivers, lakes, public water supply systems, and irrigation systems, could be devastating.

Although ISDA has adopted the temporary rule, it remains open to comment and suggestions from the public, stakeholders, and any other interested parties. ISDA will consider all information provided, and reserves the right to incorporate authorized and necessary changes into the rule. ISDA has provided written notification to those members of the public, stakeholders, irrigation entities, conservation and environmental organizations and governmental entities that were involved in the 2008 informal negotiated rulemaking 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: 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:

The Idaho State Department of Agriculture has received \$1,515,000 in spending authority from the Invasive Species Fund, reflecting the expected proceeds from the sales of Invasive Species stickers for watercraft, in accordance with Section 22-1911, Idaho Code. Further, the Department may request spending authority from the Invasive Species Deficiency Warrant, in accordance with Section 22-1912, Idaho Code. These funding mechanisms may be used to implement the proposed rule.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking commenced in 2008, and will continue at an informal level during 2009. However, due to the high risk of the introduction and spread of zebra and quagga mussels, it is necessary that ISDA have a temporary rule in place immediately in order to accomplish the goals of the Invasive Species Act of 2008. In particular, ISDA must take immediate steps to prevent the introduction and spread of zebra mussels and quagga mussels in Idaho.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Brian Oakey, Deputy Director, at (208) 332-8500 or Brian.Oakey@agri.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 22, 2009.

Signed this 30th Day of April, 2009.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road, Boise, ID 83712  
P.O. Box 790, Boise, ID 83701-0790  
Phone: (208) 322-8500  
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**THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT OF DOCKET NO. 02-0609-0901**

**IDAPA 02  
TITLE 06  
CHAPTER 09**

**02.06.09 - RULES GOVERNING INVASIVE SPECIES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 19, Idaho Code, the "Idaho Invasive Species Act of 2008" and Title 22, Chapter 20, Idaho Code, the "Idaho Plant Pest Control Act of 2002." (5-1-09)T



**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.06.09, "Rules Governing Invasive Species." (5-1-09)T

**02. Scope.** These rules govern the designation of invasive species, and establish procedures for inspection, certification, permitting, compliance verification, decontamination, recordkeeping and enforcement of regulated Aquatic Invertebrate Invasive Species. It is anticipated that this rule will be promulgated in phases with the first phase addressing Aquatic Invertebrate Invasive Species. Subsequent phases of this rule will establish inspection, certification, permitting, compliance verification, decontamination, recordkeeping and enforcement for all invasive species listed below. These rules are in addition to other existing laws and rules regulating non-native organisms harmful to Idaho agriculture or the environment. These rules do not supersede, replace, or otherwise diminish other existing federal, state or local laws and rules. The official citation of this chapter is IDAPA 02.06.09, et seq. For example, this citation for this section is IDAPA 02.06.09.001. (5-1-09)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (5-1-09)T

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (5-1-09)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (5-1-09)T

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

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (5-1-09)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (5-1-09)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (5-1-09)T

**04. Telephone Number.** The telephone number for the Division of Plant Industries at the central office is (208) 332-8620. (5-1-09)T

**05. Fax Number.** The fax number for the Division of Plant Industries at the central office is (208) 334-2283. (5-1-09)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Department. (5-1-09)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this rule. (5-1-09)T

**01. Acts.** Title 22, Chapter 19, Idaho Code, the "Idaho Invasive Species Act of 2008" and Title 22, Chapter 20, the "Idaho Plant Pest Act of 2002." (5-1-09)T

**02. Aquatic Invertebrate Invasive Species.** Those species listed in Section 800. (5-1-09)T

**03. Control.** The abatement, suppression, or containment of an invasive species or pest population. (5-1-09)T

**04. Conveyance.** A terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A Conveyance includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, or any other means or method of transportation. "Conveyance" also includes a live well or a bilge area. (5-1-09)T

**05. Department.** The Idaho State Department of Agriculture. (5-1-09)T

**06. Director.** The director of the Idaho State Department of Agriculture or his designee. (5-1-09)T

**07. Early Detection/Rapid Response.** Finding invasive species during the initial stages of colonization and then responding within ten (10) days. (5-1-09)T

**08. Equipment.** An article, tool, implement, or device capable of carrying or containing: (5-1-09)T

**a.** Water; or (5-1-09)T

**b.** An invasive species. (5-1-09)T

**09. Invasive Species Act.** The Idaho Invasive Species Act of 2008. (5-1-09)T

**10. Plant Pest Act.** The Idaho Plant Pest Act of 2002. (5-1-09)T

**11. State.** The state of Idaho. (5-1-09)T

**12. Transportation.** Any and all modes of personal and commercial Conveyance, including but not limited to automobiles, trucks, buses, boats, airplanes, helicopters, and trains. (5-1-09)T

**13. Water Body.** Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank and fountain. (5-1-09)T

**14. Water Supply System.** A system used to treat, convey or distributes water for irrigation, industrial, waste water treatment or culinary use. A Water Supply System includes a pump, canal, ditch, or pipeline, but does not include a Water Body as defined in Subsection 010.13. (5-1-09)T

**011. APPLICABILITY.**

These rules apply to the possession, importation, shipping, Transportation, eradication, and Control of invasive species in Idaho. (5-1-09)T

**012. ABBREVIATIONS.**

**01. AHS.** Aquatic Invertebrate Invasive Species. (5-1-09)T

**02. EDRR.** Early Detection/Rapid Response. (5-1-09)T

**03. MOA.** Memorandum of Agreement. (5-1-09)T

**013. -- 099. (RESERVED).**

**100. DECLARATION OF EXISTING INVASIVE SPECIES.**

**01. Declaration Form.** Any person possessing an invasive species listed herein prior to the effective date of this rule shall declare that species to the Director on a form provided by the Department prior to December 31, 2009. The declaration form shall be completed accurately and legibly. (5-1-09)T

**02. Removal of Declared Specie.** The Director may require the declarant to remove the invasive species from the State, destroy the species, or may prohibit the propagation or spread of that species. (5-1-09)T

**101. MEMORANDA OF AGREEMENT AND COOPERATIVE AGREEMENTS.**

Nothing contained herein shall prevent the Director from entering into memoranda of agreement, cooperative agreements, or other agreements with other governmental entities related to the regulation of an invasive species. (5-1-09)T

**102. REPORTING REQUIREMENTS.**

**01. Discovery to be Reported.** Any person who discovers an invasive species within the State or who has reason to believe that an invasive species may exist at a specific location shall immediately report the discovery to the Department. (5-1-09)T

**02. Contents of Report.** The report shall, to the best of the reporter's ability, contain the following information: (5-1-09)T

**a.** Location of the invasive species; (5-1-09)T

**b.** Date of discovery; and (5-1-09)T

**c.** Identification of any Conveyance, Equipment, Water Body, or host in or upon which the invasive species may be found. (5-1-09)T

**03. Methods of Reporting.** The report shall be made in person or in writing (which shall include electronic mail) as follows: (5-1-09)T

**a.** At any Department office or headquarters; (5-1-09)T

**b.** To the Department's toll free hotline at 1-877-336-8676; or (5-1-09)T

**c.** Via the Department's website at [www.agri.idaho.gov](http://www.agri.idaho.gov). (5-1-09)T

**103. POSSESSION.**

**01. Prohibition on Possession, Importation, Shipping, and/or Transportation of Invasive Species.** No person may possess, import, ship, or transport any invasive species into or through the state of Idaho following the effective date of this rule, unless the possession, importation, shipping, or Transportation falls within one (1) of the enumerated exceptions set forth in Section 103.02, and the person possessing, importing, shipping or transporting has obtained a permit under Subsection 103.03. Prohibited acts include but are not limited to: (5-1-09)T

**a.** Possessing, importing, exporting, shipping, or transporting an invasive species into or through the state of Idaho; (5-1-09)T

**b.** Releasing, placing, planting, or causing to be released, an invasive species in a Water Body, facility, Water Supply System, field, garden, planted area, ecosystem, or otherwise into the environment within the state of Idaho; (5-1-09)T

**c.** Transporting a Conveyance or Equipment into or through the state of Idaho that has been in an infested environment without decontaminating the Conveyance or Equipment; or (5-1-09)T

**d.** Transporting, importing, or shipping any plant, animal, mode of Transportation, Conveyance, or object that is infested with an invasive species into or through the state of Idaho without decontaminating the object. (5-1-09)T

**02. Exceptions to Ban on Possession, Importation, Shipping, or Transportation.** The Director may authorize, by permit, the possession, importation, shipping, and/or Transportation of an invasive species into or through the state of Idaho only if the person possessing, importing, shipping or transporting said invasive species has obtained a permit from the Department pursuant to Subsection 103.03. (5-1-09)T

**03. Permits.** Possession of invasive species in the state of Idaho is authorized only if a person obtains one (1) of the following permits. (5-1-09)T

**a.** General permit. The Director may issue a general possession permit upon receipt of an application on a form provided by the Department. Restrictions applicable to the general permit will be evaluated on a case by case basis. Permits and associated restrictions may be based on need for possession of the species, potential for harm to agriculture and environment, safeguards in place to guard against release, the disposal plan proposed by applicant, and any other criteria specific to an individual listed species. (5-1-09)T

**b.** Research permit. The Director may issue a research permit to any division of federal, state or local government, a college or university, or other research facility, upon receipt of an application on forms provided by the Department. In order to obtain a research permit, the person seeking the permit shall prove, to the Director's satisfaction, that: (5-1-09)T

**i.** Any person capturing, harvesting or otherwise acquiring an invasive species under the permit shall utilize capturing, harvesting or acquisition practices that will ensure that the invasive species is not spread or disseminated. (5-1-09)T

**ii.** Any person who comes into contact with an invasive species will decontaminate any Equipment as soon as possible after leaving infested waters or the area in which the invasive species was found. (5-1-09)T

**iii.** Any invasive species will be rendered nonviable prior to disposal. (5-1-09)T

**04. Permit Revocation.** Permits issued pursuant to this chapter may be revoked at any time if the Director or his designee finds that the permit holder has violated any of provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. (5-1-09)T

**05. Disposition of Non-Permitted Invasive Species.** The Director may order non-permitted or illegally imported invasive species to be removed from the State or destroyed. (5-1-09)T

**06. Annual Report.** All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. (5-1-09)T

**104 -- 199. (RESERVED).**

**200. AQUATIC INVERTEBRATE INVASIVE SPECIES.**

**01. Statewide EDRR AIIS List.** If any of the below listed species (Subsection 200.01) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification. Positive identification shall be made by the University of Idaho or other qualified authority as approved by the Director. Subsections 200.02 through 200.05 are applicable to EDRR AIIS.

<b>Early Detection Rapid Response Aquatic Invertebrate Invasive Species (EDRR AIIS) List</b>	
<b>Common Name</b>	<b>Scientific Name</b>
Quagga Mussel	<i>Dreissenia bugensis</i>
Zebra Mussel	<i>Dreissenia polymorpha</i>

(5-1-09)T

**02. Transporting EDRR AIIS Over Public Roads.** No person may transport Equipment or any Conveyance containing EDRR AIIS over public roads within the state of Idaho without first being decontaminated. (5-1-09)T

**a.** All Equipment and Conveyances entering the state of Idaho are presumed to be contaminated until an inspection performed by a Department-approved inspector has been completed and the inspector has certified that the Equipment or Conveyance is not contaminated. (5-1-09)T

**b.** If the inspection undertaken pursuant to Subsection 200.02.a. reveals the Equipment or Conveyance is contaminated, the Equipment and Conveyance shall not be moved from the inspection site until the Director or his designee provides written or electronic authorization to move the Equipment or Conveyance to a designated location for decontamination in accordance with Rule 200.05. (5-1-09)T

**03. Contaminated Conveyances in Idaho Waters.** A person shall not place any contaminated Equipment or Conveyance into any Water Body or Water Supply System in the state of Idaho. (5-1-09)T

**04. Inspection and Detention Regarding EDRR AIIS.** To prevent the introduction or spread of EDRR AIIS, the Director or his designee may: (5-1-09)T

**a.** Require a motor vehicle transporting a Conveyance, Equipment, or any means of transporting EDRR AIIS to stop for an inspection. (5-1-09)T

**b.** Detain or place under hold order a Conveyance, Equipment, or any means of Transportation if: (5-1-09)T

**i.** The Conveyance, Equipment, or means of Transportation is carrying or contains an EDRR AIIS; or (5-1-09)T

**ii.** The Department or its designee reasonably believes that the person transporting the Conveyance or Equipment is in violation of Sections 100 to 103; or (5-1-09)T

**iii.** The person transporting the Conveyance or Equipment refuses to submit to an inspection. (5-1-09)T

**c.** Order a person to decontaminate a Conveyance or Equipment. (5-1-09)T

**05. Length of Detention.** The detention or hold order may continue for such time as is reasonably necessary to decontaminate the Conveyance or Equipment and ensure that an EDRR AIIS is not living on or in the Conveyance or Equipment. (5-1-09)T

**06. Certification of Decontamination.** (5-1-09)T

**a.** The owner, operator or possessor of a vessel desiring to launch into a Water Body in the State must: (5-1-09)T

**i.** Certify that the vessel and any launching device have not been in an infested water; or (5-1-09)T

**ii.** Certify that the vessel and launching device have been decontaminated. (5-1-09)T

**b.** Certification of decontamination is satisfied by: (5-1-09)T

**i.** Completing self-decontamination since the vessel and launching device were last in an infested water and completing a decontamination certification form which can be obtained from the Department; or (5-1-09)T

**ii.** Providing a signed and dated certificate by a Department-approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in infested water. (5-1-09)T

**c.** Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water. (5-1-09)T

**d.** Falsification of a certification form shall be a violation of these rules. (5-1-09)T

**07. Containment Species.** AIIS listed below on the containment list may exist in various populations throughout the State. AIIS containment efforts may be directed to reducing or eliminating new or expanding populations. Known and established populations, as determined by the Invasive Species Coordinator, may be managed by any approved AIIS Control methodology, as determined by the Department.

<b>Aquatic Invertebrate Invasive Species (AIIS) Containment List</b>	
<b>Common Name</b>	<b>Scientific Name</b>
New Zealand mud snail	<i>Potamopyrgus antipodarum</i>
Red Claw crayfish	<i>Cherax quadricarinatus</i>
Yabby crayfish	<i>Cherax albidus/C. destructor</i>
Marone crayfish	<i>Cherax tenuimanus</i>
Rusty crayfish	<i>Orconectes rusticus</i>
Asian clam	<i>Corbicula fluminea</i>
Green or Burrowing Snail	<i>Cantareus apertus</i>
Pulmonate Snail	<i>Helix pomatia</i>
White Garden Snail	<i>Theba pisana</i>
Giant African Snail	<i>Achatha fulica</i>
Lactea Snail	<i>Otala lactea</i>
Maritime Garden Snail	<i>Ceruella virgata</i>
Brown Garden Snail	<i>Cryptomphalus aspersa</i>
Wrinkled Snail	<i>Candidula intersepta</i>
Chinese Mysterysnail	<i>Bellamya chinensis</i>
Japanese Mysterysnail	<i>Bellamya japonica</i>
Applesnail	<i>Pomacea spp.</i>
Marisa	<i>Marisa cornuarietis</i>
Red-lipped Melania	<i>Melanoides tuberculata</i>
Quilted Melania	<i>Tarebia granifera</i>
Decollate Snail	<i>Rumina decollate</i>

(5-1-09)T

**201. PET INDUSTRY.**

**01. Prohibition.** No person may possess, collect, sell, trade or distribute AIIS, unless that person has obtained a permit in accordance with Section 103. (5-1-09)T

**02. Inspection.** The Director or his designee may inspect aquaria, ponds, tanks, and other rearing and holding facilities to verify that they are free of AIIS. (5-1-09)T

**03. New Species.** Following the effective date of this rule, no person may introduce or import a species

not previously present in Idaho without first receiving a determination from the Department that the species is not on the invasive species list. (5-1-09)T

**202. FIREFIGHTING.**

Precautions shall be taken to prevent the introduction and spread of AIIS during firefighting activities. (5-1-09)T

**01. Use of Water for Firefighting.** (5-1-09)T

**a.** Water from infested water bodies shall not be transported into the state of Idaho for firefighting activities unless the water is first properly decontaminated, in accordance with Subsection 200.06. (5-1-09)T

**b.** Surface water for firefighting purposes must be used within the same drainage where it is collected to prevent the spread of AIIS. (5-1-09)T

**c.** Water tenders and engines shall not dump water directly into any Water Body or allow for runoff to enter a Water Body. (5-1-09)T

**02. Firefighting Equipment.** (5-1-09)T

**a.** Equipment such as tanks, pumps, hoses and helicopter buckets must be cleaned and dried or otherwise decontaminated prior to use in other basins or watersheds. (5-1-09)T

**b.** Firefighting Equipment entering the state of Idaho must be inspected for AIIS prior to being used on any fire in the State. The Department may require decontamination in accordance with Subsection 200.06. (5-1-09)T

**203. CONSTRUCTION AND ROAD EQUIPMENT.**

**01. Construction Equipment Free of AIIS.** Equipment used for construction or road building or maintenance must be free of AIIS. (5-1-09)T

**02. Inspection of Construction Equipment Prior to Use.** If Equipment that is being transported into the state of Idaho has been in contact with a Water Body or a Water Supply System within thirty (30) days of entering the State, the Equipment must be inspected for AIIS prior to being used in the State. The Department may require decontamination. (5-1-09)T

**204. -- 799. (RESERVED).**

**800. INVASIVE SPECIES - AQUATIC - INVERTEBRATES.**

**01. Zebra Mussel, *Dreissenia polymorpha*.** (5-1-09)T

**02. Quagga Mussel *Dreissenia bugensis*.** (5-1-09)T

**03. New Zealand Mud Snail, *Potamopyrgus antipodarum*.** (5-1-09)T

**04. Red Claw Crayfish, *Cherax quadricarinatus*.** (5-1-09)T

**05. Yabby Crayfish, *Cherax albidus/C. destructor*.** (5-1-09)T

**06. Marone Crayfish, *Cherax tenuimanus*.** (5-1-09)T

**07. Rusty Crayfish, *Orconectes rusticus*.** (5-1-09)T

**08. Asian Clam, *Corbicula fluminea*.** (5-1-09)T

**801. INVASIVE SPECIES - FISH.**

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- |      |  |           |
|------|--|-----------|
| 01.  | Green Sturgeon, <i>Acipenser medirostris</i> .   | (5-1-09)T |
| 02.  | Walking Catfish, <i>Clariidae</i> .  | (5-1-09)T |
| 03.  | Bowfin, <i>Ania Calva</i> .  | (5-1-09)T |
| 04.  | Gar, <i>Lepiostidae</i> .  | (5-1-09)T |
| 05.  | Piranhas, <i>Serrasalmus spp.</i> , <i>Rosseveltiella spp.</i> , <i>Pygocentrus spp.</i> | (5-1-09)T |
| 06.  | Rudd, <i>Scardinius erythrophthalmus</i> .   | (5-1-09)T |
| 07.  | Ide, <i>Leuciscus idus</i> .   | (5-1-09)T |
| 08.  | Diploid Grass Carp, <i>Ctenopharyngoden idella</i> .                                     | (5-1-09)T |
| 09.  | Bighead Carp, <i>Hypophthalmichthys nobilis</i> .  | (5-1-09)T |
| 10.  | Silver Carp, <i>Hypophthalmichthys molitrix</i> .  | (5-1-09)T |
| 11.  | Black Carp, <i>Mylopharyngodeon piceus</i> .   | (5-1-09)T |
| 12.  | Snakeheads, <i>Channa spp.</i> , <i>Parachanna spp.</i>                                  | (5-1-09)T |
| 13.  | Round Goby, <i>Neogobius melanostomas</i> .  | (5-1-09)T |
| 14.  | Ruffe, <i>Gymnocephalus cernuus</i> .  | (5-1-09)T |
| 802. | <b>INVASIVE SPECIES - AMPHIBIANS.</b>  |           |
| 01.  | Rough-skinned Newt, <i>Taricha granulose</i> .   | (5-1-09)T |
| 02.  | Bullfrog, <i>Lithobates catesbeianus</i> .   | (5-1-09)T |
| 803. | <b>INVASIVE SPECIES - REPTILES.</b>  |           |
| 01.  | Red-eared Slider, <i>Trachemys scripta elegans</i> .                                     | (5-1-09)T |
| 02.  | Mediterranean Gecko, <i>Hemidactylus turcicus</i> .                                      | (5-1-09)T |
| 03.  | Common Wall Lizard, <i>Podarcis muralis</i> .  | (5-1-09)T |
| 04.  | Italian Wall Lizard, <i>Podarcis sicula</i> .  | (5-1-09)T |
| 05.  | Brahminy blindsnake, <i>Ramphotyphlops braminus</i> .                                    | (5-1-09)T |
| 804. | <b>INVASIVE SPECIES - BIRDS.</b>   |           |
| 01.  | Mute Swan, <i>Cygnus olor</i> .  | (5-1-09)T |
| 02.  | Monk Parakeet, <i>Myiopsitta monachus</i> .  | (5-1-09)T |
| 805. | <b>INVASIVE SPECIES - MAMMALS.</b>   |           |
| 01.  | Nutria, <i>Myocastor coypus</i> .  | (5-1-09)T |



806. INVASIVE SPECIES - INSECTS.

- |     |  |           |
|-----|--|-----------|
| 01. | Asian Longhorned Beetle, <i>Anoplophora glabripennis</i> . | (5-1-09)T |
| 02. | Citrus Longhorned Beetle, <i>Anoplophora chinensis</i> .   | (5-1-09)T |
| 03. | Emerald Ash Borer, <i>Agrilus planipennis</i> .            | (5-1-09)T |
| 04. | Marmorated Stink Bug, <i>Halyomorpha halys</i> .           | (5-1-09)T |
| 05. | European Woodwasp, <i>Sirex noctilio</i> .                 | (5-1-09)T |
| 06. | European Gypsy Moth, <i>Lymantria dispar</i> .             | (5-1-09)T |
| 07. | Asian Gypsy Moth, <i>Lymantria dispar</i> .                | (5-1-09)T |
| 08. | Soybean Aphid, <i>Aphis glycines</i> .                     | (5-1-09)T |
| 09. | Potato Tuber Moth, <i>Tecia solanivora</i> .               | (5-1-09)T |
| 10. | Japanese Beetle, <i>Popilla japonica</i> .                 | (5-1-09)T |
| 11. | Mexican Bean Beetle, <i>Epilachna varivestis</i> .         | (5-1-09)T |
| 12. | Kaphra beetle, <i>Trogoderma granarium</i> .               | (5-1-09)T |
| 13. | Red Imported Fire Ant, <i>Solenopsis invicta</i> .         | (5-1-09)T |
| 14. | Glassy-winged Sharpshooter, <i>Homalodisca coagulata</i> . | (5-1-09)T |
| 15. | Grape Phylloxera, <i>Daktulosphaira vitifoliae</i> .       | (5-1-09)T |
| 16. | Vine Mealybug, <i>Planococcus ficus</i> .                  | (5-1-09)T |
| 17. | Summer Fruit Tortrix, <i>Adoxophyes orana</i> .            | (5-1-09)T |
| 18. | Silver Y Moth, <i>Autoographa gamma</i> .                  | (5-1-09)T |
| 19. | False Codling Moth, <i>Cyrtophlebia leucotreta</i> .       | (5-1-09)T |
| 20. | Light Brown Apple Moth, <i>Epiphyas postvittana</i> .      | (5-1-09)T |
| 21. | Apple Tortrix, <i>Archips fuscocupreanus</i> .             | (5-1-09)T |
| 22. | Pine Shoot Beetle, <i>Tomicus piniperda</i> .              | (5-1-09)T |
| 23. | Cherry Bark Tortrix, <i>Enarmonia formosana</i> .          | (5-1-09)T |
| 24. | Apple Ermine Moth, <i>Ypomoneuta malinellus</i> .          | (5-1-09)T |
| 25. | Cherry Ermine Moth, <i>Enarmonia formosana</i> .           | (5-1-09)T |
| 26. | European Grape Vine Moth, <i>Lobesia botrana</i> .         | (5-1-09)T |
| 27. | European Grape Berry Moth, <i>Eupoecilia ambiguella</i> .  | (5-1-09)T |
| 28. | Plum Fruit Moth, <i>Cydia funebrana</i> .                  | (5-1-09)T |

29. Plum Curculio, *Conotrachelus nenuphar*. (5-1-09)T
30. Leek Moth, *Acrolepiopsis assectella*. (5-1-09)T
31. Bee Mite, *Tropilaelaps cleareae*. (5-1-09)T
32. Small Hive Beetle, *Aethina tumida*. (5-1-09)T
33. Africanized Honey Bee, *Apis mellifera*. (5-1-09)T
34. Black Currant Gall Mite, *Cecidophyopsis ribis*. (5-1-09)T
35. Exotic Bark Beetles, (Scolytidae): (5-1-09)T
- a. *Scolytus mali*. (5-1-09)T
- b. *Xylosandrus crassiusculus*. (5-1-09)T
- c. *Xylosandrus germanus*. (5-1-09)T
- d. *Xyleborus californicus*. (5-1-09)T
36. Sunni Bug, *Eurygaster intergriceps*. (5-1-09)T
37. German Yellowjacket, *Vespula germanica*. (5-1-09)T
38. European Paper Wasp, *Polistes dominulus*. (5-1-09)T
39. European Elm Bark Beetle, *Scolytus multistriatus*. (5-1-09)T
40. Banded Elm Bark Beetle, *Scolytus schevyrewi*. (5-1-09)T
41. Wheat Blossom Midge, *Sitodiplosis mosellana*. (5-1-09)T
42. Potato Tuberworm, *Phthorimeaea operculella*. (5-1-09)T
807. INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES.
01. Sudden Oak Death (Ramorum blight), *Phytophthora ramorum*. (5-1-09)T
02. Karnal Bunt, *Tilletia indica*. (5-1-09)T
03. Bean Common Mosaic Virus, (strain US-6). (5-1-09)T
04. Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5). (5-1-09)T
05. Potato Wart, *Synchytrium endobioticum*. (5-1-09)T
06. Golden Nematode, *Globodera rostochiensis*. (5-1-09)T
07. Soybean Cyst Nematode, *Heterodera glycines*. (5-1-09)T
08. Bacterial Wilt of Alfalfa, *Clavibacter michiganensis* spp. *insidiosus*. (5-1-09)T
09. Wheat Seed Gall Nematode, *Anguina tritici*. (5-1-09)T

10. Pine Wilt Nematode, *Bursaphelenchus xylophilus*. (5-1-09)T
11. Brown Rot of Potatoes, *Ralstonia solanacearum*, race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium). (5-1-09)T
12. Java Downy Mildew of Corn, *Peronosclerospora maydis*. (5-1-09)T
13. Philippine Downy Mildew of Corn, *Peronosclerospora philipeninsis*. (5-1-09)T
14. Asian Soybean Rust, *Phakospora pachyrhizi*. (5-1-09)T
15. Plum Pox Potyvirus. (5-1-09)T
16. Cherry Leaf Roll Virus. (5-1-09)T
17. Stewart's Wilt of Corn, *Pantoea stewartii*. (5-1-09)T
18. Brown Stripe Downy Mildew of Corn, *Sclerophthora rayssiae* var. *zeae*. (5-1-09)T
19. Potato Spindle Tuber Viroid. (5-1-09)T
20. Pierce's Disease of Grapes, *Xylella fastidiosa*. (5-1-09)T
21. Black Currant Reversion Disease. (5-1-09)T
22. Powdery Mildew of Hops, *Sphaerotheca macularis* (s. *humuli*). (5-1-09)T
23. Bacterial Brown Spot of Beans, *Pseudomonas syringae* pv *syringae*. (5-1-09)T
24. Wheat Smut, *Tilletia tritici*. (5-1-09)T
25. Wheat Scab, *Fusarium graminearum*. (5-1-09)T
26. Potato Ring Rot, *Corynebacterium sepedonicum*. (5-1-09)T
27. Potato Late Blight, *Phytophthora infestans*. (5-1-09)T
28. Onion White Tot, *Sclerotium cepivorum*. (5-1-09)T
29. Sugar Beet Rhizomania (beet necrotic yellow vein virus (BNYVV) and transmitted by the soil fungus *Polymyxa betae*). (5-1-09)T
30. White Pine Blister Rust, *Cronartium ribicola*. (5-1-09)T
31. Cereal Cyst Nematode, *Heterodera avenae*. (5-1-09)T
32. Columbia Root Knot Nematode, *Meloidogyne chitwoodi*. (5-1-09)T
33. Onion Stem and Bulb Nematode, *Ditylenchus dipsaci* (onion race). (5-1-09)T
34. Iris Yellow Spot Virus - IYSV of onions. (5-1-09)T
35. Potato Mop Top Virus, PMTV. (5-1-09)T
808. **INVASIVE SPECIES - INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS).**
  01. Green or Burrowing Snail, *Cantareus apertus*. (5-1-09)T

- |              |   |           |
|--------------|---|-----------|
| 02.          | Pulmonate Snail, <i>Helix pomatia</i> .   | (5-1-09)T |
| 03.          | White Garden Snail, <i>Theba pisana</i> .   | (5-1-09)T |
| 04.          | Giant African Snail, <i>Achatha fulica</i> .  | (5-1-09)T |
| 05.          | Lactea Snail, <i>Otala lacteal</i> .  | (5-1-09)T |
| 06.          | Maritime Garden Snail, <i>Cerneuella virgata</i> .  | (5-1-09)T |
| 07.          | Brown Garden Snail, <i>Cryptomphalus aspersa</i> .  | (5-1-09)T |
| 08.          | Wrinkled Snail, <i>Candidula intersecta</i> .   | (5-1-09)T |
| 09.          | Chinese Mysterysnail, <i>Bellamyia chinensis</i> .  | (5-1-09)T |
| 10.          | Japanese Mysterysnail, <i>Bellamyia japonica</i> .  | (5-1-09)T |
| 11.          | Applesnail, <i>Pomacea</i> spp..  | (5-1-09)T |
| 12.          | Marisa, <i>Marisa cornuarietis</i> .  | (5-1-09)T |
| 13.          | Red-lipped Melania, <i>Melanoides tuberculata</i> .   | (5-1-09)T |
| 14.          | Quilted Melania, <i>Tarebia granifera</i> .   | (5-1-09)T |
| 15.          | Decollate Snail, <i>Rumina decollate</i> .  | (5-1-09)T |
| 809. -- 899. | (RESERVED).   |           |
| 900.         | <b>ADDITION, REMOVAL, OR RECLASSIFICATION OF SPECIES.</b><br>The Director may add or remove species to the invasive species list, or reclassify their status as listed in this chapter by issuing a written order listing the invasive species and the reasons for adding them to or removing them from the invasive species list, or for reclassifying the invasive species. | (5-1-09)T |
| 901.         | <b>PENALTIES FOR VIOLATION.</b><br>Any person who violates the provisions of this chapter shall be subject to the penalty provisions of Section 22-1913 and/or Section 22-2020, Idaho Code.   | (5-1-09)T |
| 902.         | <b>MINOR VIOLATIONS.</b><br>Nothing in this chapter shall be construed as requiring the Department to report minor violations when the Department believes that the public interest will be best served by suitable warnings or other administrative action.  | (5-1-09)T |
| 903. -- 999. | (RESERVED).   |           |

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.03.01 - RULES OF BUILDING SAFETY**

**DOCKET NO. 07-0301-0901**

#### **NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

**MEETING SCHEDULE:** Public meetings on the negotiated rulemaking are scheduled by the Idaho Building Code Board and will be held as follows:

**WEDNESDAY - JUNE 10, 2009 - 9:30 a.m. (MST)**

**WEDNESDAY - AUGUST 12, 2009 - 9:30 a.m. (MST)**

**IDAHO DIVISION OF BUILDING SAFETY  
1090 E. Watertower, Meridian, Idaho 83642**

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

Interested members of the public who wish to participate must submit any comments, questions, recommendations, or ideas to the Idaho Building Code Board on designated forms available at the Division of Building Safety website <http://dbs.idaho.gov/> and at the DBS office in Meridian, Idaho. Individuals may also attend the public meetings to be conducted on the above dates during which the Idaho Building Code Board will allow oral comments or presentations to be made.

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

Pursuant to Sections 39-4107 and 39-4109, Idaho Code, the Idaho Building Code Board has the authority through the promulgation of rules to adopt and amend building codes, which establish the building construction and safety standards in the state of Idaho. These codes include the International Building Code, International Residential Code, International Energy Conservation Code, and the International Existing Building Code. The Building Code Board desires to adopt the 2009 editions of these codes with possible amendments thereto. The Board seeks the participation of the affected industry and the public at large in this rulemaking process to ensure that due consideration is given to the varying views about building code construction standards to be adopted for use in Idaho.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments, questions, recommendations, and ideas must be submitted on the appropriate form to the Division of Building Safety or the Idaho Building Code Board on or before June 8, 2009. The point of contact at DBS is C. Kelly Pearce, (208) 334-3950.

DATED this 6th day of May, 2009.

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

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0901

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-107, 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 Wednesday, June 17, 2009.

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:

According to surveys and testimony given to the Idaho Legislature, Idaho has a lack of consistency, reliability and validity in measuring teacher performance. Both the standards and procedures by which teachers are being evaluated have been found to lack consistency from one district to the next and often within a district from one school to another. Many teachers across Idaho have expressed concerns about the quality, fairness, consistency and reliability of teacher evaluation systems currently being used in their school district.

Part of the recommendations made by the Teacher Evaluation Task Force included making changes to Idaho Administrative code, IDAPA 08.02.02. - Section 120, Local District Evaluation Policy. The changes establish state wide minimum standards for a fair, thorough, consistent and efficient system for evaluating teacher performance in Idaho based on Dr. Charlotte Danielson's Framework For Teaching. Dr. Danielson is a nationally recognized expert on school improvement. Danielson developed the Framework for Teaching as a guide to help teachers become more effective and help them focus on areas in which they could improve. The framework groups teachers' responsibilities into four major areas, which are clearly defined, and then further divided into components that highlight the practice of effective teaching.

**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(2), Idaho Code, negotiated rulemaking was not conducted because the recommendations for change were proposed by the Teacher Evaluation Task Force which was comprised of a variety of stakeholders. These revisions were then presented for public comment a number of times throughout the state. After receiving public comment, the teacher Evaluation Task Force revised their recommendations as a result of the public comments received during the statewide tour. If necessary, the Teacher Evaluation Task Force will work together with the State Department of Education to refine and address the public comment received after the close of the official public comment period.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Nick Smith, Deputy Superintendent of School Support Services, at 208-332-6959.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, June 24, 2009.

DATED this 23rd Day of April, 2009.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St., 2nd Floor  
PO Box 83720, Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-0901**

**120. LOCAL DISTRICT EVALUATION POLICY.**

Each school district board of trustees will develop and adopt policies for teacher performance evaluation in which criteria and procedures for the evaluation of certificated personnel are established research based and aligned to Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. The process of developing criteria and procedures for certificated personnel evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators and teachers. The evaluation policy will be a matter of public record and communicated to the certificated personnel for whom it is written. ~~(4-1-97)~~( )

**01. Standards.** Each district evaluation model shall be aligned to state minimum standards that are based on Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. Those domains and components include: ( )

- a.** Domain 1 - Planning and Preparation: ( )
  - i. Demonstrating Knowledge of Content and Pedagogy: ( )
  - ii. Demonstrating Knowledge of Students: ( )
  - iii. Setting Instructional Goals: ( )
  - iv. Demonstrating Knowledge of Resources: ( )
  - v. Designing Coherent Instruction; and ( )
  - vi. Assessing Student Learning. ( )
- b.** Domain 2 - Learning Environment: ( )
  - i. Creating an Environment of Respect and Rapport: ( )
  - ii. Establishing a Culture for Learning: ( )
  - iii. Managing Classroom Procedures: ( )
  - iv. Managing Student Behavior; and ( )
  - v. Organizing Physical Space. ( )
- c.** Domain 3 - Instruction and Use of Assessment: ( )
  - i. Communicating Clearly and Accurately: ( )
  - ii. Using Questioning and Discussion Techniques: ( )

- iii. Engaging Students in Learning: ( )
- iv. Providing Feedback to Students: ( )
- v. Demonstrating Flexibility and Responsiveness; and ( )
- vi. Use Assessment to Inform Instruction and Improve Student Achievement. ( )
- d.** Domain 4 - Professional Responsibilities: ( )
  - i. Reflecting on Teaching: ( )
  - ii. Maintaining Accurate Records: ( )
  - iii. Communicating with Families: ( )
  - iv. Contributing to the School and District: ( )
  - v. Growing and Developing Professionally; and ( )
  - vi. Showing Professionalism. ( )

**042. Participants.** Each district evaluation policy will include provisions for evaluating all certificated employees identified in Section 33-1001, Idaho Code, Subsection 13, and each school nurse and librarian (Section 33-515, Idaho Code). Policies for evaluating certificated employees should identify the differences, if any, in the conduct of evaluations for nonrenewable contract personnel and renewable contract personnel. (4-1-97)

**023. Evaluation Policy - Content.** Local school district policies will include, at a minimum, the following information: (4-1-97)

**a.** Purpose -- statements that identify the purpose or purposes for which the evaluation is being conducted; e.g., individual instructional improvement, personnel decisions. (4-1-97)

**b.** Evaluation criteria -- statements of the general criteria upon which certificated personnel will be evaluated. (4-1-97)

**c.** Evaluator -- identification of the individuals responsible for appraising or evaluating certificated personnel performance. The individuals assigned this responsibility should have received training in evaluation. (4-1-97)

**d.** Sources of data -- description of the sources of data used in conducting certificated personnel evaluations. For classroom teaching personnel, classroom observation should be included as one (1) source of data. (4-1-97)

**e.** Procedure -- description of the procedure used in the conduct of certificated personnel evaluations. (4-1-97)

**f.** Communication of results -- the method by which certificated personnel are informed of the results of evaluation. (4-1-97)

**g.** Personnel actions -- the action, if any, available to the school district as a result of the evaluation and the procedures for implementing these actions; e.g., job status change. Note: in the event the action taken as a result of evaluation is to not renew an individual's contract or to renew an individual's contract at a reduced rate, school districts should take proper steps to follow the procedures outlined in Sections 33-513 through 33-515, Idaho Code in order to assure the due process rights of all personnel. (4-1-97)



**h.** Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists regarding the results of certificated personnel evaluations. (4-1-97)

**i.** Remediation -- the procedure available to provide remediation in those instances where remediation is determined to be an appropriate course of action. (4-1-97)

**j.** Monitoring and evaluation. -- A description of the method used to monitor and evaluate the district's personnel evaluation system. (4-1-97)

**k.** Professional development and training -- a plan for ongoing training for evaluators/administrators and teachers on the districts evaluation standards, tool and process. ( )

**l.** Funding -- a plan for funding ongoing training and professional development for administrators in evaluation. ( )

**m.** Collecting and using data -- a plan for collecting and using data gathered from the evaluation tool that will be used to inform professional development. ( )

**n.** A plan for how evaluations will be used to identify proficiency and define a process that identifies and assists teachers in need of improvement. ( )

**o.** A plan for including all stakeholders including, but not limited to, teachers, board members, and administrators in the development and ongoing review of their teacher evaluation plan. ( )

**034. Evaluation Policy - Frequency of Evaluation.** The evaluation policy should include a provision for evaluating all certificated personnel on a fair and consistent basis. At a minimum, the policy must provide standards for evaluating the following personnel: (4-1-97)

**a.** First-, second-, and third-year nonrenewable contract personnel will be evaluated at least once prior to the beginning of the second semester of the school year. (4-1-97)

**b.** All renewable contract personnel will be evaluated at least once annually. (4-1-97)

**045. Evaluation Policy - Personnel Records.** Permanent records of each certificated personnel evaluation will be maintained in the employee's personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code). (4-1-97)

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

### DOCKET NO. 08-0202-0902

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is May 8, 2009.

**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 33-1201 and 33-1258, 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 Wednesday, June 17, 2009.

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

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

This rule change is in response to the Highly Qualified Teacher (HQT) mandate. In order to assist teachers in meeting highly qualified teacher status this immediate rule change is necessary. The traditional route to endorsement for in-service professionals seeking other endorsement areas is not sufficiently meeting the demands of school districts, particularly those in rural areas. These changes are in alignment with No Child Left Behind (NCLB) and allow for additional options to attain an endorsement. The four options include traditional coursework through a college or university, National Board certification, content specific graduate degree, and standardized content testing (Praxis II) with a mentoring component and/or pedagogical assessment.

These additional routes expedite the attainment of endorsements for teachers who are needed to teach in areas outside of their current endorsement. Under the alternative authorization provisions these additional routes are available to Idaho school districts requesting endorsement/certification when a professional position cannot be filled with someone who has the correct endorsement/certification and is only valid for up to three years and is nonrenewable. All of these additional options for endorsement bring Idaho rule into further alignment with NCLB and the Highly Qualified Teacher mandate.

**Option I** - Teacher to New Certification was pre-existing under this section before and is now designated option one and titled accordingly. This option is for initial certification and/or endorsement and is for traditional coursework through a postsecondary institution.

**Option II** - National Board for adding an endorsement. By earning National Board certification in a content specific area, candidates may add an endorsement in that same content area to a valid certificate.

**Option III** - Master's degree or higher for adding an endorsement. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid certificate.

**Option IV** - Testing and/or Pedagogical Assessment is for endorsement only. Two pathways are available to some candidates, depending upon endorsement(s) already held. Pathway I acknowledges content areas that are closely compatible in pedagogy with an endorsement area the candidate already qualifies and is experienced. This route requires no coursework once content competency has been shown as a result of a passing score on the appropriate Praxis II test and completion of a mentoring component. Pathway II addresses less closely aligned areas and therefore additional pedagogy in content area best practices is required in addition to content knowledge. Both Pathway I and II require a minimum of one year of supervision and mentoring.

Major additions to the alternate route to endorsement were already passed by the Legislature this 2009 session; however, the wording between Pathway I and Pathway II is in need of some minor clarifications. In addition, we are taking this opportunity to delete the “emergency” language. While all requests must still pass through the Professional Standards Commission Authorizations Committee, and districts must still communicate why it is in their best interest to choose this route rather than hire a person who is already appropriately certificated, the district will not need to prove that it is an emergency situation. The only other change is to include the option of awarding a teacher an additional endorsement for attaining a Master’s Degree in a specific content area. Both changes bring the state into greater alignment with Title II-A guidance.

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

An error was discovered after the alternate authorization rule change was approved by the 2009 Idaho Legislature. In order to correct the error before teachers beginning the alternate route to endorsement, this rule change is being run as temporary and proposed.

**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: 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(1), Idaho Code, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, June 24, 2009.

DATED this 27th Day of April, 2009.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St., 2nd Floor  
PO Box 83720, Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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**THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT OF DOCKET NO. 08-0202-0902**

**043. ALTERNATIVE AUTHORIZATION – TEACHER TO NEW CERTIFICATION (EFFECTIVE JULY 1, 2006).**

The purpose of this alternative authorization is to allow Idaho school districts to request ~~emergency~~ endorsement/certification when a professional position cannot be filled with someone who has the correct endorsement/

certification. Alternative authorization in this area is valid for up to three (3) years and is nonrenewable.

~~(5-8-09)~~(5-8-09)T

**01. Initial Qualifications.** Prior to application, a candidate must hold a Bachelor's degree, and a valid Idaho teacher certificate without full endorsement in content area of need. The school district must ~~declare an emergency and~~ provide supportive information attesting to the ability of the candidate to fill the position.

~~(3-20-04)~~(5-8-09)T

**02. Alternative Route Preparation Program.** (3-20-04)

**a.** Option I - Teacher to New Certification/Endorsement. (5-8-09)

i. Candidate will work toward completion of the alternative route preparation program through a participating college/university, and the employing school district. Candidate must complete a minimum of nine (9) semester credits annually to be eligible for extension of up to a total of three (3) years. (3-20-04)

ii. The participating college/university shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-20-04)

iii. Candidate shall meet all requirements for the endorsement/certificate as provided herein. (3-20-04)

**b.** Option II - National Board (endorsement only). By earning National Board certification in content specific areas teachers may gain endorsement in a corresponding subject area. (5-8-09)

**c.** Option III - Master's degree or higher (endorsement only). By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid certificate. (5-8-09)T

**ed.** Option ~~IV~~ - Testing and/or Assessment (endorsement only). Two (2) pathways are available to some teachers, depending upon endorsement(s) already held. ~~(5-8-09)~~(5-8-09)T

i. Pathway 1 - Endorsements may be added through state-approved testing ~~only, provided that and a mentoring component.~~ ~~†~~The appropriate test ~~is~~ must be successfully completed within the first year of authorization in an area closely compatible with an endorsement for which the ~~candidate~~ candidate already ~~qualifies~~ qualifies and ~~are~~ is experienced. Additionally requires the successful completion of a one (1)-year state-approved mentoring component. ~~(5-8-09)~~(5-8-09)T

ii. Pathway 2 - Endorsements may be added through state-approved testing ~~provided that in an area less closely compatible with an endorsement for which the candidate already qualifies and is experienced.~~ ~~†~~The appropriate test ~~is~~ must be successfully completed within the first year of the authorization ~~in an area closely compatible with an endorsement for which a teacher already qualifies and is experienced.~~ Additionally requires the successful completion of a one (1)-year state-approved mentoring component and passing a final pedagogy assessment. ~~(5-8-09)~~(5-8-09)T

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0903

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1258, 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 Wednesday, June 17, 2009. 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:

**Section 021:** This rule change responds to a statewide challenge in meeting federal guidelines for Highly Qualified status and teacher shortages. In light of increased math and science graduation requirements, it is clear that the state may be facing an even greater shortage in these core content areas. This rule change proposes an avenue to head off a dramatic deficiency. It also allows for more local control and flexibility in meeting certification requirements, especially in consideration of rural districts that have difficulty in hiring and retaining qualified support personnel.

This rule change allows endorsements to be added to Professional Technical certificates. Up to this point, Professional Technical Education (PTE) issued full certificates but only in technical content areas. This will allow our technical education teachers to become highly qualified in core content area endorsements (math, science, language arts, etc.) so they can be highly qualified and take on additional assignments. This will particularly assist rural districts, provide students more options for meeting graduation requirements, and allow for more flexibility in assigning PTE certified teachers.

**Section 024:** In 2005 Idaho redesigned the social studies endorsement to meet the mandate of No Child Left Behind. An interdisciplinary endorsement was no longer sufficient; content expertise was to be proven in all four of the core content areas contained within the endorsement – government, economics, geography, and history. Though the original design intended to satisfy these requirements making social studies endorsed teachers highly qualified in all of these areas, it was found unacceptable to the US Department of Education (USDOE).

Because of the widely rural nature of Idaho, having teachers who can teach in more than one subject area is an absolute necessity. In accordance with direction given from the USDOE, changes have been made to the endorsement to bring the integrated social studies endorsement into compliance with highly qualified status in all four of the core content areas.

**Section 027:** This rule change is in response to a need for more uniform language. The term “provisional” is used erroneously to describe what is truly an “interim” certificate. A “provisional authorization” is granted as a one (1) year waiver whereas an “interim certificate” is granted for a period of three (3) years while educational requirements are actively being sought. This endorsement as it applies to the school nurse is an “interim endorsement” and needs to be worded appropriately.

**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(1), Idaho Code, negotiated rulemaking was conducted. This proposed rule change was brought before the Standards Committee of the Professional Standards Commission. It was presented and discussed, amended, and revisited. The final version was then proposed to the entire Professional Standards Commission for a vote.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh (208) 332-6885.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, June 24, 2009.

DATED this 27th Day of April, 2009.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St., 2nd Floor  
PO Box 83720, Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-0903**

**021. ENDORSEMENTS.**

Holders of a Secondary Certificate or a Standard Elementary Certificate, Standard Occupational Specialist Certificate, and Advanced Occupational Specialist Certificate may be granted endorsements in subject areas as provided herein. An official statement of competency in a teaching area or field is acceptable in lieu of courses for a teaching major or minor if such statements originate in the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. To add an endorsement to an existing credential, an individual shall complete the credit hour requirements as provided herein and shall also meet or exceed the state qualifying score on appropriate, state approved content, pedagogy and performance assessments. When converting semester credit hours to quarter credit hours, two (2) semester credit hours is equal to three (3) quarter credit hours. ~~(3-16-04)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**024. ENDORSEMENTS M - Z.**

**01. Marketing Technology Education (6-12).** (3-16-04)

**a.** Twenty (20) semester credit hours to include course work in each of the following areas: Marketing; Management; Economics; Coordination of Cooperative Programs; Merchandising/Retailing; and Curriculum and Materials Marketing, with remaining credit hours in the field of business. (3-16-04)

**b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

**02. Mathematics - Basic (6-12).** Twenty (20) semester credit hours in Mathematics including course work in Algebra, Geometry, and Trigonometry. Six (6) semester credit hours of computer programming may be substituted for six (6) semester credits in Mathematics. (3-16-04)

- 03. Mathematics (6-12).** Twenty (20) semester credit hours including course work in each of the following areas: Geometry, Linear Algebra, Discrete Mathematics, Probability and Statistics, and a minimum of three (3) semester credit hours of Calculus. Statistics course work may be taken from a department other than the mathematics department. (4-11-06)
- 04. Music (6-12 or K-12).** Twenty (20) semester credit hours to include course work in the following: Theory and Harmony; Aural Skills, Music History; Conducting; Applied Music; and Piano Proficiency (Class Piano or Applied Piano), and Secondary Music Methods/Materials. To obtain a Music K-12 endorsement, applicants holding a Secondary Certificate must complete an elementary music methods course. (4-11-06)
- 05. Natural Science (6-12).** An endorsement in: Biological Science, Physical Science, Physics, Chemistry, Earth Science, Geology, or Agriculture Science and Technology. Twenty-four (24) semester credit hours are required in each endorsement area as follows: (4-11-06)
- a. Biological Science Endorsement.** Minimum of eight (8) semester credit hours in each of the following areas: Physics, Chemistry, and Earth Science or Geology. (4-11-06)
- b. Physics Endorsement.** Minimum of eight (8) semester credit hours in each of the following areas: Biology, Chemistry, and Earth Science or Geology. (4-11-06)
- c. Chemistry Endorsement.** Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Earth Science or Geology. (4-11-06)
- d. Earth Science or Geology Endorsement.** Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Chemistry. (4-11-06)
- e. Agriculture Science and Technology Endorsement.** Minimum of four (4) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science or Geology, and Physics. Remaining course work must be from the sciences: Biology, Chemistry, Earth Science or Geology, and Physics. (4-11-06)
- 06. Physics (6-12).** Twenty (20) semester credit hours in the area of Physics. (3-16-04)
- 07. Physical Education (PE) (6-12 or K-12).** Twenty (20) semester credit hours to include course work in each of the following areas: Sport, Movement, and Outdoor Skills; Elementary PE Methods; Secondary PE Methods; Student Evaluation in PE; Administration of a PE Program; Safety and Prevention of Injuries; Fitness and Wellness; PE for Special Populations; Exercise Physiology; Kinesiology/Biomechanics; Sports Psychology or Sociology; Motor Behavior; and Current CPR and First Aid Certification. (3-30-07)
- 08. Physical Education/Health.** Must have an endorsement in both physical education and health. (3-30-07)
- 09. Physical Science (6-12).** Twenty (20) semester credit hours in the area of physical science to include a minimum of eight (8) semester credit hours in each of the following: Chemistry and Physics. (3-16-04)
- 10. Psychology.** Twenty (20) semester credit hours in the area of Psychology. (3-16-04)
- 11. Social Studies (6-12).** Must have an endorsement in History, American Government/Political Science, Economics, ~~Sociology, Psychology,~~ or Geography plus a minimum of ~~twenty (20) semester credit hours of which the following are required: a minimum of six~~ twelve (12) semester credit hours ~~of general U.S. history survey; a minimum of three (3) semester credit hours of American Government. The remaining semester credit hours must include course work from all of the following~~ in each of the remaining core endorsements areas: World History, Geography, Economics, ~~Sociology,~~ and ~~Psychology~~ American Government/Political Science. ~~(4-11-06)( )~~ (4-11-06)( )
- 12. Sociology (6-12).** Twenty (20) semester credit hours in the area of Sociology. (3-16-04)
- 13. Sociology/Anthropology (6-12).** Twenty (20) semester credit hours including a minimum of six (6) semester credit hours in each of the following: Anthropology and Sociology. (3-16-04)

**14. Technology Education (6-12).** (3-16-04)

**a.** Twenty (20) semester credit hours to include course work in each of the following areas: Communication Technology; Computer Applications; Construction Technology; Electronics Technology; Manufacturing Technology; Power, Energy and Transportation; and Principles of Technology. (3-16-04)

**b.** Occupational teacher preparation as provided in Sections 034 through 038. (3-16-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**027. PUPIL PERSONNEL SERVICES CERTIFICATE.**

Persons who serve as school counselors, school psychologists, speech-language pathologists, school social workers, school nurses and school audiologists are required to hold the Pupil Personnel Services Certificate, with the respective endorsement(s) for which they qualify. (3-16-04)

**01. Counselor Endorsement (K-12).** To be eligible for a Pupil Personnel Services Certificate endorsed Counselor K-12, a candidate must have satisfied the following requirements. The Pupil Personnel Services Certificate with a Counselor endorsement is valid for five (5) years. Six (6) semester credit hours are required every five (5) years in order to renew the endorsement. (5-8-09)

**a.** Hold a master's degree and provide verification of completion of an approved program of graduate study in school guidance and counseling from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, seventy-five percent (75%) of which must be in a K-12 school setting. Substantial amounts of this K-12 experience must be in each of the following levels: elementary, middle/junior high, and high school. Previous school counseling experience may be considered to help offset the field experience clock hour requirement. (5-8-09)

**b.** An institutional recommendation is required for a Counselor K-12 Endorsement. (5-8-09)

**02. School Psychologist Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. To be eligible for initial endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-16-04)

**a.** Completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hours, master's degree in education or psychology and completion of an approved thirty (30) semester credit hour, or forty-five (45) quarter credit hour, School Psychology Specialist Degree program. (3-16-04)

**b.** Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, master's degree program in School Psychology. (3-16-04)

**c.** Completion of an approved sixty (60) semester credit hour, or ninety (90) quarter credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum twelve hundred (1,200) clock-hour internship within a school district under the supervision of the training institution and direct supervision of a certificated school psychologist. (5-8-09)

**03. School Nurse Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through completion of ~~the following~~ either requirements in Subsections 27.03.a. or 27.03.b. in addition to the requirement of Subsection 27.03.c. (~~3-16-04~~)( )



a. The candidate must possess a valid nursing (RN) license issued by the Idaho State Board of Nursing, and a bachelor's degree in nursing, education, or a health-related field from an accredited institution. (5-8-09)

b. The candidate must possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing and have completed nine (9) semester credit hours from a university or college in at least three (3) of the following areas: (5-8-09)

i. Health program management; (5-8-09)

ii. Child and adolescent health issues; (5-8-09)

iii. Counseling, psychology, or social work; or (5-8-09)

iv. Methods of instruction. (5-8-09)

c. Additionally, each candidate must have two (2) years' full-time (or part-time equivalent) school nursing, community health nursing, or any area of pediatric, adolescent, or family nursing experience. (5-8-09)

**04. Provisional Interim Endorsement - School Nurse.** This certificate will be granted for those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. An Interim Certificate - will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. (~~5-8-09~~)( )

**05. Speech-Language Pathologist Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

**06. Audiology Endorsement.** This endorsement is valid for five (5) years. Six (6) credits are required every five (5) years in order to renew the endorsement. Initial endorsement will be issued to candidates who possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education, and who receive an institutional recommendation from an accredited college or university. (3-16-04)

**07. School Social Worker Endorsement.** This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years in order to renew the endorsement. Initial endorsement may be accomplished through possession of a social work certificate issued by the Idaho Bureau of Occupational Licenses, an institutional recommendation, and completion of one (1) of the following options: (3-16-04)

a. A master's degree in social work from an Idaho college or university approved by the State Board of Education, or a master's degree in social work from an out-of-state college or university. The program must be currently approved by the state educational agency of the state in which the program was completed. (3-16-04)

b. A master's degree in guidance and counseling, sociology, or psychology plus thirty (30) semester credit hours of graduate work in social work education, including course work in all the following areas: understanding the individual; casework method; field placement; social welfare programs and community resources; and research methods. (3-16-04)

**08. Interim Endorsement-Speech Language Pathologist.** This certificate will be granted for those who do not meet the educational requirements but who hold a bachelor's degree in Speech language pathology and are pursuing a master's degree in order to obtain the pupil personnel services certificate endorsed in speech language pathology. An Interim Certificate will be issued for three (3) years while the applicant is meeting the educational requirements, and it is not renewable. ( )

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0902

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-107, Idaho Code and Section 33-1612, 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 Wednesday, June 17, 2009.

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 Content Standards for Social Studies, Physical Education, Health, Chemistry (as part of the Science standard), and Humanities are due for revision as part of the six year curricular materials adoption cycle. Idaho Curricular Materials Adoption Process provides review and evaluation of new curricular materials for these content areas in 2010 and requires the most up to date standards for textbook submission by vendors. Idaho Content Standards were also reviewed and revised in order to meet the needs of the increased high school graduation requirements for the Class of 2013. For each content area, committees were solicited to participate in the revision process.

The standards for Chemistry and Humanities were introduced as temporary rule in the last rulemaking year, because they needed to be used prior to the end of the 2009 legislative session as schools began to review their district curricular needs. They are now being presented in the current rulemaking year as a proposed rule.

**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(2), Idaho Code, negotiated rulemaking was not conducted because groups of teachers and other interested persons were assembled to revise the standards. The same groups will work together with the State Department of Education to refine and address the public comment received on the course-specific standards after the public comment period.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Peter Kavouras at 332-6975, Pat Stewart at 332-6929, Rhonda DeMers at 332-6950, Peggy Wenner at 332-6949, or Scott Smith at 332-6952. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, June 24, 2009.

DATED this 24th Day of April, 2009.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State St., 2nd Floor  
PO Box 83720, Boise, ID 83720-0027  
(208) 332-6812; f (208) 334-2228

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-0902

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule:

(3-30-07)

**01. The Idaho Content Standards.** The Idaho Content Standards as adopted by the State Board of Education ~~on August 21, 2008.~~ Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. ~~(11-3-08)F( )~~

- a.** Driver Education, as revised and adopted on August 21, 2008. ( )
- b.** Health, as revised and adopted on April 17, 2009. ( )
- c.** Humanities Categories: ( )
  - i.** Art, as revised and adopted on April 17, 2009; ( )
  - ii.** Dance, as revised and adopted on April 17, 2009; ( )
  - iii.** Drama, as revised and adopted on April 17, 2009; ( )
  - iv.** Interdisciplinary, as revised and adopted on April 17, 2009; ( )
  - v.** Music, as revised and adopted on April 17, 2009; ( )
  - vi.** World languages, as revised and adopted on April 17, 2009. ( )
- d.** Language Arts, Part I: reading, as revised and adopted on August 21, 2008. ( )
- e.** Language Arts, Part II: language arts, as revised and adopted on August 21, 2008. ( )
- f.** Limited English Proficiency, as revised and adopted on August 21, 2008. ( )
- g.** Mathematics, as revised and adopted on August 21, 2008. ( )
- h.** Physical Education, as revised and adopted on April 17, 2009. ( )
- i.** Science, as revised and adopted on April 17, 2009. ( )
- j.** Social Studies, as revised and adopted on April 17, 2009. ( )

**02. The Idaho English Language Development Standards.** The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

**03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

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

[www.boardofed.idaho.gov](http://www.boardofed.idaho.gov).

(4-2-08)

**05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on May 30, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

**06. The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education website at <http://www.boardofed.idaho.gov>. (5-8-09)

**07. The Idaho Alternative Assessment Extended Achievement Standards.** Alternative Assessment Extended Achievement Standards as adopted by the State Board of Education on February 28, 2008. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (5-8-09)

**08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

**09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired.** As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

**IDAPA 10 - IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

**10.01.01 - RULES OF PROCEDURE**

**DOCKET NO. 10-0101-0901**

**NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220(1), 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 54-1208, Idaho Code.

**MEETING SCHEDULE:** A public meeting on the negotiated rulemaking will be held as follows:

**FRIDAY - JUNE 19, 2009 - 9:00 a.m.**

**HOMEWOOD SUITES BY HILTON  
7957 W. Spectrum  
Boise, Idaho 83709**

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

To discuss possible technical changes; to consider amendments to facilitate possible changes from paper-and-pencil exams to computer-based exams; to clarify the requirements to become a professional engineer especially qualified in the discipline of structural engineering; to modify the rules to reflect the fact that the examinations are no longer administered by the Board or its staff; and to clarify the Board's right to publish disciplinary action.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact David L. Curtis, P.E., Executive Director at [dave.curtis@ipels.idaho.gov](mailto:dave.curtis@ipels.idaho.gov) or (208) 373-7210.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 24, 2009.

DATED this 28th day of April, 2009.

David L. Curtis, P.E.  
Executive Director  
Board of Professional Engineers and Professional Land Surveyors  
5535 W. Overland Road  
Boise, Idaho 83705  
Voice (208) 373-7210, Fax (208) 373-7213  
email: [dave.curtis@ipels.idaho.gov](mailto:dave.curtis@ipels.idaho.gov)

**IDAPA 10 - IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

**10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY**

**DOCKET NO. 10-0102-0901**

**NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220(1), 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 54-1208, Idaho Code.

**MEETING SCHEDULE:** A public meeting on the negotiated rulemaking will be held as follows:

**FRIDAY - JUNE 19, 2009 - 9:00 a.m.**

**HOMEWOOD SUITES BY HILTON  
7957 W. Spectrum  
Boise, Idaho 83709**

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

Possible addition of definition of “deceit” in IDAPA 10.01.02.004; possible modifications to the definition of “misconduct” in IDAPA 10.01.02.004; possible addition of definition of “negligence and incompetence” in IDAPA 10.01.02.004; possible modifications to IDAPA 10.01.02.004.06 regarding obligation to communicate with clients; possible modifications to IDAPA 10.01.02.007.01 relating to complete, objective and truthful reports, statements or testimony; possible changes to IDAPA 10.01.02.011.01 relating to affidavits for rule and statute violations

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact David L. Curtis, P.E., Executive Director at [dave.curtis@ipels.idaho.gov](mailto:dave.curtis@ipels.idaho.gov) or (208) 373-7210.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 24, 2009.

DATED this 28th day of April, 2009.

David L. Curtis, P.E.  
Executive Director  
Board of Professional Engineers and Professional Land Surveyors  
5535 W. Overland Road  
Boise, Idaho 83705  
Voice (208) 373-7210, Fax (208) 373-7213  
email: [dave.curtis@ipels.idaho.gov](mailto:dave.curtis@ipels.idaho.gov)

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.04.04 - EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS

DOCKET NO. 16-0404-0901

### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency and the Board of Health and Welfare intend to promulgate rules and desire public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 16-107(g), Idaho Code.

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

<b>TUESDAY JUNE 16, 2009 7:00 p.m. PDT</b>	<b>WEDNESDAY JUNE 17, 2009 7:00 p.m. MDT</b>	<b>THURSDAY JUNE 18, 2009 7:00 p.m. MDT</b>
<b>Dept. of Health &amp; Welfare-Reg. 1 1120 Ironwood Drive 1st Floor, Lg. Conf. Rm. Coeur d'Alene, ID</b>	<b>Dept. of Health &amp; Welfare-Reg.7 2475 Leslie Ave. 1st Floor Conf. Rm. Idaho Falls, ID</b>	<b>Dept. of Health &amp; Welfare-Reg. 4 1720 Westgate Suite A, Rm. 192 Boise, ID</b>

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking must do one of the following:

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

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

The 2009 Legislature directed the Department's Infant Toddler Program to establish a process to charge fees to families receiving early intervention services for eligible infants and toddlers. Families participating in this program will share in the cost of the services through a system of sliding fees or through private insurance. The sliding fee system will be based on family income and ability to pay.

The Department is entering into negotiated rulemaking to seek input from families, service providers, and other stakeholders regarding the development of a cost-sharing system for families receiving early intervention services. To administer this system, a new chapter of rules is being developed. This new chapter of rules will provide policies and procedures for the payment of co-pays, income thresholds for assessing payment obligations, and procedures for the verification of income.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Mary Jones at (208) 334-5523. Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Friday, June 26, 2009.

DATED this 5th day of May, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720, Boise, ID 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
dhwrules@dhw.idaho.gov e-mail

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.04.16 - WEATHERIZATION ASSISTANCE PROGRAM IN IDAHO**

**DOCKET NO. 16-0416-0901**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is April 1, 2009.

**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 56-202 and 56-203, 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 June 17, 2009.

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

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

This chapter of rules is being updated with income eligibility criteria from the American Recovery and Reinvestment Act of 2009. The income level has been changed to 200% of the federal poverty level for weatherization assistance through this program governed by the Federal Department of Energy.

**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 change will confer a benefit and help more low-income residents be able to utilize the weatherization programs funds.

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

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

There is no anticipated fiscal impact to state general funds associated with this rulemaking. Funds for this program are provided by the Federal Department of Energy.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the change is conferring a benefit to Idaho residents.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Genie Sue Weppner (208) 334-5656.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 24, 2009.

DATED this 3rd day of April, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720, Boise, ID 83720-0036

(208) 334-5564 phone  
(208) 334-6558 fax  
dhwrules@dhw.idaho.gov e-mail



**THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT OF DOCKET NO. 16-0416-0901**

**010. DEFINITIONS AND ABBREVIATIONS.**

For purposes of this chapter of rules, the following terms and abbreviations are used as defined. (5-8-09)

**01. Community Action Agency (CAA).** A private corporation or public agency established according to the Economic Opportunity Act of 1964, 42 USC 2701, et seq., which is authorized to administer funds received from federal, state, local, or private funding entities to assess, design, operate, finance, and oversee anti-poverty programs. (5-8-09)

**02. Contractor.** A weatherization project entity at the sub-state level which receives a contract from the Department to carry out activities of this program. (5-8-09)

**03. Cosmetic Items.** Items which, when installed, will not reduce energy costs in a cost effective manner, such as finishes, decorative materials, elevation materials, aluminum siding, board and bat, clapboard, brick, shakes, or asphalt siding. (5-8-09)

**04. Department.** The Idaho Department of Health and Welfare or its designee. (5-8-09)

**05. DOE.** The U.S. Department of Energy. (5-8-09)

**06. Dwelling Unit.** A house, including a stationary mobile home, an apartment, a group of rooms or a single room occupied as separate living quarters. (5-8-09)

**a. Rental Dwelling Unit.** A dwelling unit occupied by a person who pays rent for use of the dwelling unit. (5-8-09)

**b. Single-Family Dwelling Unit.** A structure containing no more than one (1) dwelling unit. (5-8-09)

**07. Elderly Person.** A person who is sixty (60) years of age or older. (5-8-09)

**08. EPA.** The U.S. Environmental Protection Agency. (5-8-09)

**09. Family Unit.** All persons living together in a dwelling unit. (5-8-09)

**10. Grantee.** The Idaho Department of Health and Welfare. (5-8-09)

**11. Household.** All persons living together in a dwelling unit. (5-8-09)

**12. Heating or Cooling Sources.** A device which raises or lowers the temperature within a dwelling unit that is part of the permanent heating, ventilating and air-conditioning system installed in the dwelling unit. Examples of a heating or cooling system are: furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air-conditioners, fans, or solar devices. (5-8-09)

**13. Low-Income.** Income as it relates to family size which is: (5-8-09)

**a.** ~~At or below one hundred twenty five percent (125%) of the poverty level as determined using~~ criteria established by the Director of the Office of Management and Budget, ~~or unless~~ a higher level has been established by the Secretary and is necessary to carry out the purpose of this part and is consistent with the eligibility criteria established for the weatherization program under Section 222(a)(12) of the Economic Opportunity Act of 1964; ~~(5-8-09)(4-1-09)T~~

**b.** The basis on which cash assistance payments have been paid during the preceding twelve (12) month period under Titles IV and XVI of the Social Security Act, 42 USC 301, or applicable state or local law; or (5-8-09)

~~c. The basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981, provided that such basis is at least one hundred twenty-five percent (125%) of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget. (5-8-09)(4-1-09)T~~

**14. Mechanical Equipment.** A control device or apparatus which is primarily designed to improve the heating or cooling efficiency of a dwelling unit, and which will permanently be affixed to an existing heating or cooling source, such as flue dampers, clock thermostats, filters, and replacements limit switches. (5-8-09)

**15. Occupants.** A single family, one (1) person living alone, two (2) or more families living together, or any other group of related or unrelated persons who share living arrangements. (5-8-09)

**16. Persons with Disabilities.** Any individual who is: (5-8-09)

**a.** Handicapped as defined in Section 7(6) of the Rehabilitation Act of 1973; (5-8-09)

**b.** Under a disability as defined in Section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in Section 102(7) of the Developmental Disabilities Services and Facilities Construction Act; or (5-8-09)

**c.** Receiving benefits under Chapter 11 or 15 of Title 38, U.S.C. (5-8-09)

**17. Regional Representative.** A Regional Representative of the U.S. Department of Energy. (5-8-09)

**18. Secretary.** The Secretary of the U.S. Department of Energy. (5-8-09)

**19. Separate Living Quarters.** Living quarters in which the occupants do not live and eat with any other persons in the structure and have direct access from the outside of the building or through a common hall or complete kitchen facilities for the exclusive use of the occupants. The occupants may be related or unrelated persons who share living arrangements, and includes shelters for homeless persons. (5-8-09)

**20. Shelter.** A dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities. (5-8-09)

**21. Subgrantee.** An entity managing a weatherization project which receives a grant or contract of funds awarded under this program from the Department or CAA. (5-8-09)

**22. Weatherization Project.** A project conducted in a single geographical area which undertakes to weatherize dwelling units which are energy inefficient. (5-8-09)

**23. Weatherization Materials.** Items used to improve the heating or cooling efficiency of a dwelling unit, such as: (5-8-09)

**a.** Caulking and weatherstripping of doors and windows; (5-8-09)

**b.** Furnace efficiency modifications which include replacement burners, furnaces, or boilers or any combination thereof; (5-8-09)

**c.** Devices for minimizing energy loss through heating system, chimney, or venting devices; (5-8-09)

**d.** Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and (5-8-09)

**e.** Cooling efficiency modifications that include replacement air conditioners, ventilation equipment, screening and window films, and shading devices. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

100. MINIMUM PROGRAM REQUIREMENTS.

**01. Dwelling Units Eligible for Weatherization.** A dwelling unit will be eligible under these rules if it is occupied by a family unit: (5-8-09)

**a.** Whose income is at or below ~~one~~ ~~two~~ ~~hundred~~ ~~twenty-five~~ percent (~~125~~~~200~~%) of the poverty level, ~~as specified in Section 101 of this rule;~~ determined ~~in accordance with~~ according to criteria established by the Director of the Office of Management and Budget; (~~5-8-09~~)(4-1-09)T

**b.** Which contains a member who had received cash assistance payments under Title IV or XVI of the Social Security Act or applicable state or local law paid during the twelve (12) months preceding the determination of eligibility for weatherization assistance; or (5-8-09)

**c.** Is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, ~~provided that such basis is at least one hundred twenty-five percent (125%) of the poverty level determined in accordance with~~ according to criteria established by the Director of the Office of Management and Budget. (~~5-8-09~~)(4-1-09)T

**02. Rental Dwelling Units Eligible for Weatherization.** A Subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance when: (5-8-09)

**a.** The subgrantee has obtained the written permission of the owner or his agent; (5-8-09)

**b.** Not less than sixty-six percent (66%) of the dwelling units in the building, or fifty percent (50%) for duplexes and four-unit buildings are eligible dwelling units, or will become eligible dwelling units within one hundred eighty (180) days under a federal, state, or local government program for rehabilitating the building or making similar improvements to the building; (5-8-09)

**c.** The grantee has established procedures for dwellings which consist of rental units to ensure that the benefits of the weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will benefit the low-income tenants residing in such units; (5-8-09)

**d.** For a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit, including households paying for their energy through their rent, will not be subjected to rent increases unless those increases are related to matters other than the weatherization work performed. (5-8-09)

**e.** A subgrantee may weatherize shelters and to determine how many dwelling units exist in a shelter, a subgrantee may count each 800 square feet of the shelter as a dwelling unit or it may count each floor of the shelter as a dwelling unit. (5-8-09)

**03. Documentation of Eligibility.** No dwelling unit can be weatherized without documentation that the dwelling unit is an eligible dwelling unit. The subgrantee must determine that the family unit is eligible using as proof any of the following: (5-8-09)

**a.** Wage stubs; (5-8-09)

**b.** Supplemental Security Income; (5-8-09)

**c.** Medicaid card; or (5-8-09)

**d.** W-2 Wage and Tax Statement. (5-8-09)

**04. Documents Unavailable.** If the documents listed in Subsections 100.03.a. through 100.03.d.of this

rule are not available, the head of family must sign and date a declaration of income eligibility and provide it to the subgrantee identifying the following: (5-8-09)

- a. The family unit's name; (5-8-09)
- b. The family unit's address; (5-8-09)
- c. Their income level, per year or month; and (5-8-09)
- d. The sources from which the income is derived. (5-8-09)
- e. The subgrantee must spot check the information provided on at least ten percent (10%) of the declarations received to insure eligibility. (5-8-09)

**05. Proof of Documentation.** Copies of the proof documents are to be retained and made available by the subgrantee to the Department or its agents for inspection and audit for at least three (3) years. (5-8-09)

~~**101. POVERTY INCOME ELIGIBILITY LIMITS.**~~

~~Maximum income guidelines for the weatherization program are based on guidelines established for assistance under the Low Income Home Energy Assistance Act of 1981. (5-8-09)~~

~~**102. -- 199. (RESERVED).**~~

**200. ALLOWABLE EXPENDITURES.**

The items listed in Subsections 200.01 through 200.14 of this rule are allowable expenditures for the Weatherization Assistance Program. (5-8-09)

- 01. Cost of Weatherization Materials.** The cost to purchase and deliver weatherization materials. (5-8-09)
- 02. Labor Costs.** The following labor costs are allowable expenditures: (5-8-09)
  - a. Payments permitted by the Department of Labor to supplement wages paid to training participants, public service employment workers, or other Federal or State training programs; and (5-8-09)
  - b. Payments to employ labor or to engage a contractor, particularly a nonprofit organization or a business owned by disadvantaged individuals which performs weatherization services, provided a grantee has determined an adequate number of volunteers, training participants, public service employment workers, or other federal or state training programs are not available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors. (5-8-09)
- 03. Transportation of Materials, Tools, and Work Crews.** Transportation of weatherization material, tools, and work crews to a storage site and to the site of weatherization work. (5-8-09)
- 04. Vehicle Maintenance, Operation, and Insurance.** Maintenance, operation, and insurance of vehicles used to transport weatherization materials. (5-8-09)
- 05. Maintenance of Tools and Equipment.** (5-8-09)
- 06. Cost of Vehicles.** Purchase of any vehicle must be referred to DOE for prior approval in every instance before cost of a vehicle is allowed as an expenditure. (5-8-09)
- 07. Employment of On-Site Supervisory Personnel.** (5-8-09)
- 08. Incidental Repairs.** The cost of incidental repairs if such repairs are necessary to make the installation of weatherization materials effective. (5-8-09)

**09. Cost of Liability Insurance.** The cost of liability insurance for weatherization projects for personal injury and for property damage; (5-8-09)

**10. Low-Cost Weatherization Activities.** The cost of carrying out low-cost/no-cost weatherization activities in accordance with 10 CFR Part 440.20. (5-8-09)

**11. Financial Audits.** The cost of weatherization program financial audits as required by 10 CFR Part 440.23(d). (5-8-09)

**12. Administrative Expenses.** Allowable administrative expenses under 10 CFR Part 440.18(d). (5-8-09)

**13. Leveraging Activities.** Funds used for leveraging activities in accordance with 10 CFR Part 440.14(b)(9)(xiv). (5-8-09)

**14. Elimination of Health and Safety Hazards.** The cost of eliminating health and safety hazards, elimination of which is necessary before, or because of, installation of weatherization materials. (5-8-09)

**15. Limitations.** No grant funds are awarded under the Weatherization Assistance Program when used for any of the following purposes: (5-8-09)

**a.** To install or otherwise provide weatherization materials for a dwelling unit which has been weatherized previously with grant funds authorized under these rules, except as provided under 10 CFR Part 440.20 low-cost or no-cost weatherization activities. If such dwelling unit has been damaged by fire, flood, or an act of God; and repair of the damage to weatherization materials is not paid for by insurance the Weather Assistance Program may award funds for repair. (5-8-09)

**b.** To weatherize a dwelling unit which is vacant or designated for acquisition or clearance by a federal, state, or local program within twelve (12) months of the date weatherization of the dwelling unit would be scheduled to be completed. (5-8-09)

**c.** Dwelling units partially weatherized under 10 CFR Part 440 or under other federal programs during the period of September 30, 1975, through September 30, 1993~~4~~, may receive further financial assistance for weatherization under 10 CFR Part 440. These homes must be reported separately, but may be counted as completions for the purposes of compliance with the per-home expenditure limit in 10 CFR Part 440.18. Each dwelling unit must receive a new energy audit which takes into account any previous energy conservation improvements to the dwelling. ~~(5-8-09)~~(4-1-09)T

**d.** Cosmetic items as defined in Section 010 of these rules. (5-8-09)

**16. Additional Funds.** Additional funds for administration, tools, and transportation of materials, work crews, and equipment to work sites can be allocated by the Department on the basis of need and availability. (5-8-09)

# IDAPA 17 - INDUSTRIAL COMMISSION

## 17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0901

### NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is May 8, 2009.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

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

The temporary rule containing physician fee updates effective July 1, 2008, as required by 72-803, Idaho Code, will no longer be in effect upon sine die adjournment of the 2009 legislature, May 8, 2009. This temporary rule will provide the same fee schedule updates as the previous temporary rule until a new proposed rule can be submitted for legislative approval in 2010.

**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 deadlines in amendments to governing law. The proposed rules were rejected by the 2009 legislature due to problems in one section, causing the entire rule to be rejected. The rejected rule contained the new fee structure of a required annual adjustment that provided a 3% increase for providers. This temporary rule will extend those fees until a proposed rule can be presented to the 2010 legislature.

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Patti Vaughn at 208-334-6084.

DATED this 8th day of May, 2009.

Mindy Montgomery  
Director  
Industrial Commission  
700 South Clearwater Lane  
P.O. Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6059  
Fax: (208) 334-2321

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#### THE FOLLOWING IS THE TEMPORARY TEXT OF DOCKET NO. 17-0208-0901

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

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the

Commission”) hereby adopts the following rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (3-12-07)

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

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

**b.** “Ambulatory Surgery Center (ASC)” means a facility providing surgical services on an outpatient basis only. (4-2-08)

**c.** “Hospital” is any acute care facility providing medical or hospital services and which bills using a Medicare universal hospital billing form. (4-2-08)

**i.** Large hospital is any hospital with more than one hundred (100) acute care beds. (4-2-08)

**ii.** Small Hospital is any hospital with one hundred (100) acute care beds or less. (4-2-08)

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

**e.** “Payor” means the legal entity responsible for paying medical benefits under Idaho’s Workers’ Compensation Law. (6-1-92)

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

**g.** “Reasonable,” means a charge does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined below. (3-12-07)

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

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

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

**a.** Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by providers other than hospitals and ASCs. The standard for determining the acceptable charge for hospitals and ASCs shall be: (4-2-08)

**i.** For large hospitals: Eighty-five percent (85%) of the appropriate inpatient charge. (4-2-08)

**ii.** For small hospitals: Ninety percent (90%) of the appropriate inpatient charge. (4-2-08)

**iii.** For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. (4-2-08)

**iv.** Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (4-2-08)

v. Paragraph 031.02.e., shall not apply to hospitals or ASCs. The Commission shall determine the appropriate charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)

b. Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

<b>MEDICAL FEE SCHEDULE</b>			
<b>SERVICE CATEGORY</b>	<b>CODE RANGE(S)</b>	<b>DESCRIPTION</b>	<b>CONVERSION FACTOR</b>
Anesthesia	00000 - 09999	Anesthesia	<del>\$58.19</del> <u>60.05</u>
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	<del>\$140</del> <u>144.48</u>
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	<del>\$125</del> <u>129.00</u>
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	<del>\$110</del> <u>113.52</u>
Surgery - Group Four	20000 - 20615 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	<del>\$85</del> <u>87.72</u>
Surgery - Group Five	10000 - 12999 29000 - 29799	Integumentary System Casts & Strapping	<del>\$67</del> <u>69.14</u>
Radiology	70000 - 79999	Radiology	<del>\$85</del> <u>87.72</u>
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	<del>\$45</del> <u>46.44</u>



<b>MEDICAL FEE SCHEDULE</b>			
<b>SERVICE CATEGORY</b>	<b>CODE RANGE(S)</b>	<b>DESCRIPTION</b>	<b>CONVERSION FACTOR</b>
Medicine - Group Two	90800 - 92999 96040 - 96999 99000 - 99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	<del>\$64.50</del> <u>66.56</u>
Medicine - Group Three	93000 - 93999 95000 - 96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	<del>\$70</del> <u>72.24</u>

~~(4-2-08)~~(5-8-09)T

**c.** The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-2-08)

**d.** Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY), starting with FY 2009, as determined by the director of the Department of Health and Welfare using the methodology set forth in section 56-136, Idaho Code, pursuant to Section 72-803, Idaho Code. (4-2-08)

**e.** Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)

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

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

## IDAPA 18 - DEPARTMENT OF INSURANCE

### 18.01.54 - RULE TO IMPLEMENT THE NAIC MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS MODEL ACT

DOCKET NO. 18-0154-0901

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2009.

**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 41-211, Idaho Code and Chapter 44, Title 41, 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 June 17, 2009.

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

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

The proposed changes will amend Idaho's administrative rule Implementing the National Association of Insurance Commissioners' Medicare Supplement Minimum Standards Model Act to comply with federal requirements contained in the Genetic Information Nondiscrimination Act, the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and the Medicare Improvements for Patients and Provider Act of 2008 (MIPPA).

The revised NAIC Model Rule conforms to federal laws and regulations that make major changes to Medicare Supplement plans and benefits, including the elimination of some types of plans and the addition of several new categories of plans. States are required to adopt these revisions in order to continue to regulate the Medicare Supplement market.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule is necessary to comply with deadlines in amendments to federal programs and confers a public benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The rule does not impose a fee.

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes made by this rulemaking were needed to conform the existing rule to changes in federal law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Joan Krosch at 208-334-4300.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 24, 2009.

DATED this 1st day of May, 2009.

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

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**THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT OF DOCKET NO. 18-0154-0901**

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited in full as Idaho Department of Insurance Rules, IDAPA 18.01.54, ~~Title 01, Chapter 54,~~ "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act." (4-5-00)(7-1-09)T

**02. Scope.** (4-5-00)

**a.** Except as otherwise specifically provided in Sections ~~00920, 01428, 01529, 01832,~~ and 0237, this rule shall apply to: (4-5-00)(7-1-09)T

**i.** All Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this rule; and (4-5-00)

**ii.** All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state. (4-5-00)

**b.** This rule shall not apply to a policy or contract of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organization. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

All ~~contested cases~~ administrative appeals shall be governed by ~~the provisions of~~ Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-5-00)(7-1-09)T

**004. INCORPORATION BY REFERENCE.**

This rule incorporates by reference Appendixes A, B, and C and all other outlines of coverage and specific plan designs of the National Association of Insurance Commissioners (NAIC) Model Act implementing the Medicare supplement insurance minimum standards, July 1, 2009. The Model Act is available from the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, MO 64108-2662 and from the Idaho Department of Insurance. (7-1-09)T

**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. (7-1-09)T

**02. Mailing Address.** The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (7-1-09)T

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. (7-1-09)T

**04. Web Site Address.** The department's web address is <http://www.doi.idaho.gov>. (7-1-09)T

**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. (7-1-09)T

**007. -- 009. (RESERVED).**

**00410. DEFINITIONS.**

For the purposes of ~~HDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act,"~~ this rule, the following terms will be used as defined below: (~~4-5-00~~)(7-1-09)T

**01. Applicant.** (4-5-00)

**a.** In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and (4-5-00)

**b.** In the case of a group Medicare supplement policy, the proposed certificateholder. (4-5-00)

**02. Bankruptcy.** A Medicare Advantage organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state. (4-11-06)

**03. Certificate.** Any certificate delivered or issued for delivery in this state under a group Medicare supplement policy. (4-5-00)

**04. Certificate Form.** The form on which the certificate is delivered or issued for delivery by the issuer. (4-5-00)

**05. Continuous Period of Creditable Coverage.** The period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days. (4-5-00)

**06. Creditable Coverage.** (4-5-00)

**a.** With respect to an individual, coverage of the individual provided under any of the following: (4-5-00)

**i.** A group health plan; (4-5-00)

**ii.** Health insurance coverage; (4-5-00)

**iii.** Part A or Part B of Title XVIII of the Social Security Act (Medicare); (4-5-00)

**iv.** Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928; (4-5-00)

**v.** Chapter 55 of Title 10 United States Code (CHAMPUS); (4-5-00)

**vi.** A medical care program of the Indian Health Service or of a tribal organization; (4-5-00)

- vii. A state health benefits risk pool; (4-5-00)
- viii. A health plan offered under chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program); (4-5-00)
- ix. A public health plan as defined in federal regulation; and (4-5-00)
- x. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)). (4-5-00)
- b.** Creditable coverage shall not include one (1) or more, or any combination of, the following: (4-5-00)
  - i. Coverage only for accident or disability income insurance, or any combination thereof; (4-5-00)
  - ii. Coverage issued as a supplement to liability insurance; (4-5-00)
  - iii. Liability insurance, including general liability insurance and automobile liability insurance; (4-5-00)
  - iv. Workers' compensation or similar insurance; (4-5-00)
  - v. Automobile medical payment insurance; (4-5-00)
  - vi. Credit-only insurance; (4-5-00)
  - vii. Coverage for on-site medical clinics; and (4-5-00)
  - viii. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits. ~~(3-15-02)~~(7-1-09)T
- c.** Creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan: (4-5-00)
  - i. Limited scope dental or vision benefits; (4-5-00)
  - ii. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and (4-5-00)
  - iii. Such other similar, limited benefits as are specified in federal regulations. (4-5-00)
- d.** Creditable coverage shall not include the following benefits if offered as independent, non-coordinated benefits: (4-5-00)
  - i. Coverage only for a specified disease or illness; and (4-5-00)
  - ii. Hospital indemnity or other fixed indemnity insurance. (4-5-00)
- e.** Creditable coverage shall not include the following if it is offered as a separate policy, certificate, or contract of insurance: (4-5-00)
  - i. Medicare supplemental health insurance as defined under ~~§~~Section 1882(g)(1) of the Social Security Act; ~~(4-5-00)~~(7-1-09)T
  - ii. Coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code; and (4-5-00)

- iii. Similar supplemental coverage provided to coverage under a group health plan. (4-5-00)
- f.** The Health Insurance Portability and Accountability Act of 1996 (HIPAA) specifically addressed separate, noncoordinated benefits in the group market at PHSA Section 2721(d)(2) and the individual market at Section 2791(c)(3). HIPAA also references excepted benefits at PHSA Sections 2701(c)(1), 2721(d), 2763(b) and 2791(c). In addition, credible coverage has been addressed in an interim final rule (62 Fed. Reg. At 16960-16962 (April 8, 1997)) issued by the Secretary of Health and Human Services, pursuant to HIPAA, and may be addressed in subsequent regulations. (4-1-06)
- 07. Employee Welfare Benefit Plan.** A plan, fund, or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act). (4-5-00)
- 08. Insolvency.** When an issuer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile. (4-5-00)
- 09. Issuer.** Includes insurance companies, fraternal benefit societies, managed care organizations, and any other entity delivering or issuing for delivery in this state Medicare supplement policies or certificates. (4-5-00)
- 10. Medicare.** The "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended. (4-5-00)
- 11. Medicare Advantage Plan.** A plan of coverage for health benefits under Medicare Part C as defined in 42 U.S.C. 1395w-28 (b)(1), and includes: (4-11-06)
- a.** Coordinated care plans which provide health care services, including but not limited to managed care organization (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans; (4-5-00)
- b.** Medical savings account plans coupled with a contribution into a Medicare Advantage medical savings account; and (4-11-06)
- c.** Medicare Advantage private fee-for-service plans. (4-11-06)
- 12. Medicare Supplement Policy.** A group or individual policy of accident and sickness insurance or an enrollee contract under a managed care organization, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.) or an issued policy under a demonstration project specified in 42 U.S.C. Section 1395ss(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. "Medicare Supplement Policy" does not include Medicare Advantage plans established under Medicare Part C. Outpatient Prescription Drug plans established under Medicare Part D, or any Health Care Prepayment Plan (HCPP) that provides benefits pursuant to an agreement under Section 1833(a)(1)(A) of the Social Security Act; provided, however, that under Section 104(c) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), policies that are advertised, marketed or designed primarily to cover out-of-pocket costs under Medicare Advantage Plans (established under Medicare Part C) must comply with the Medicare supplement requirements of Section 1882(o) of the Social Security Act. ~~(4-11-06)~~(7-1-09)T
- 13. Pre-Standardized Medicare Supplement Benefit Plan.** A group or individual policy of Medicare supplement insurance issued prior to July 1, 1992 on which the state made its revisions to conform to the Omnibus Budget Reconciliation Act of 1990. (7-1-09)T
- 14. 1990 Standardized Medicare Supplement Benefit Plan.** A group or individual policy of Medicare supplement insurance issued on or after July 1, 1992 and with an effective date for coverage prior to June 1, 2010 and includes Medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured. (7-1-09)T

**15.** 2010 Standardized Medicare Supplement Benefit Plan. A group or individual policy of Medicare supplement insurance with an effective date for coverage issued on or after June 1, 2010. (7-1-09)T

**136.** **Policy Form.** The form on which the policy is delivered or issued for delivery by the issuer. (4-5-00)

**147.** **Secretary.** The Secretary of the United States Department of Health and Human Services. (4-5-00)

**00511. POLICY DEFINITIONS AND TERMS.**

No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms which conform to the requirements of this section. (4-5-00)

**01. Accident, Accidental Injury, or Accidental Means.** To employ “result” language and shall not include words ~~which~~ that establish an accidental means test or use words such as “external, violent, visible wounds” or similar words of description or characterization. (4-5-00)(7-1-09)T

**a.** The definition shall not be more restrictive than the following: “Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force.” (4-5-00)

**b.** The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers’ compensation, employer’s liability or similar law, or motor vehicle no-fault plan, unless prohibited by law. (4-5-00)

**02. Benefit Period or Medicare Benefit Period.** Shall not be defined more restrictively than as defined in the Medicare program. (4-5-00)

**03. Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility.** Shall not be defined more restrictively than as defined in the Medicare program. (4-5-00)

**04. Health Care Expenses.** For purposes of Section 04629, expenses of managed care organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers. ~~Expenses shall not include:~~ (4-11-06)(7-1-09)T

~~**a.** Home office and overhead costs;~~ (4-5-00)

~~**b.** Advertising costs;~~ (4-5-00)

~~**c.** Commissions and other acquisition costs;~~ (4-5-00)

~~**d.** Taxes;~~ (4-5-00)

~~**e.** Capital costs;~~ (4-5-00)

~~**f.** Administrative costs; and~~ (4-5-00)

~~**g.** Claims processing costs.~~ (4-5-00)

**05. Hospital.** May be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program. (4-5-00)

**06. Medicare.** Shall be defined in the policy and certificate. Medicare may be substantially defined as “The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965<sup>2</sup> as then constituted or later amended,” or “Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United

States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import. ~~(4-5-00)~~(7-1-09)T

**07. Medicare Eligible Expenses.** Expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare. (4-11-06)

**08. Physician.** Shall not be defined more restrictively than as defined in the Medicare program. (4-5-00)

**09. Sickness.** Shall not be defined to be more restrictive than the following: "Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law. (4-5-00)

~~006. -- 007.~~ **(RESERVED).**

**00812. POLICY PROVISIONS.**

**01. Medicare Supplement Policy.** Except for permitted preexisting condition clauses as described in ~~Subsections Paragraphs 00920.01.a., and 01021.01.a. and 022.01.a.~~, no policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare. ~~(4-5-00)~~(7-1-09)T

**02. Waivers.** No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions. (4-5-00)

**03. Duplicate Benefits.** No Medicare supplement policy or certificate in force in the state shall contain benefits which duplicate benefits provided by Medicare. (4-5-00)

**04. Outpatient Prescription Drugs.** (4-11-06)

**a.** Subject to ~~Subsections Paragraphs 00920.01.d., 00920.01.e., 00920.01.j., and 01021.01.d., and 01021.01.e. of this rule,~~ a Medicare Supplement Policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006 shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder. ~~(4-11-06)~~(7-1-09)T

**b.** A Medicare supplement policy with benefits for outpatient prescription drugs shall not be issued after December 31, 2005. (4-11-06)

**c.** After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs may not be renewed after the policyholder enrolls in Medicare Part D unless: (4-11-06)

**i.** The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan; and (4-11-06)

**ii.** Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable. (4-11-06)

**013. -- 019. (RESERVED).**

**00920. MINIMUM BENEFIT STANDARDS FOR PRE-STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY PRIOR TO JULY 1, 1992.**

No policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards. ~~(4-5-00)~~(7-1-09)T



**01. General Standards.** The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of ~~HDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act."~~ this rule. (4-5-00)(7-1-09)T

**a.** A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (4-5-00)

**b.** A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (4-5-00)

**c.** A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible ~~amount and copayment percentage factors,~~ copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes. (4-5-00)(7-1-09)T

**d.** A "non-cancelable," "guaranteed renewable," or "non-cancelable and guaranteed renewable" Medicare supplement policy shall not: (4-5-00)

**i.** Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or (4-5-00)

**ii.** Be canceled or non-renewed by the issuer solely on the grounds of deterioration of health. (4-5-00)

**e.** Except as authorized by the director of this state, an issuer shall neither cancel nor non-renew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation. (4-5-00)

**f.** If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in ~~Subsection Paragraph 00920.01.h.,~~ the issuer shall offer certificate-holders an individual Medicare supplement policy. The issuer shall offer the certificate-holder at least the following choices: (4-5-00)(7-1-09)T

**i.** An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and ~~or~~ (4-5-00)(7-1-09)T

**ii.** An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in Subsection ~~01021.02.~~ (4-5-00)(7-1-09)T

**g.** If membership in a group is terminated, the issuer shall: (4-5-00)

**i.** Offer the certificate-holder the conversion opportunities described in ~~Subsection Paragraph 00920.01.f.;~~ or (4-5-00)(7-1-09)T

**ii.** At the option of the group policyholder, offer the certificate-holder continuation of coverage under the group policy. (4-5-00)(7-1-09)T

**h.** If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (4-5-00)

**i.** Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to

the duration of the policy benefit period, if any, or to payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss. (4-11-06)

**j.** If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of Subsection 00920.01.

~~(4-11-06)~~(7-1-09)T

**02. Minimum Benefit Standards.** (4-5-00)

**a.** Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; (4-5-00)

**b.** Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount; (4-5-00)

**c.** Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days; (4-5-00)

**d.** Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days; (4-5-00)

**e.** Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B; (4-5-00)

**f.** Coverage for the coinsurance amount or in the case of hospital outpatient department services paid under a prospective payments system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible; (5-3-03)

**g.** Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount. (4-5-00)

**04021. BENEFIT STANDARDS FOR 1990 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY ON OR AFTER JULY 1, 1992 AND WITH AN EFFECTIVE DATE FOR COVERAGE PRIOR TO JUNE 1, 2010.**

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 1, 1992, and with an effective date for coverage prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. ~~(4-5-00)~~(7-1-09)T

**01. General Standards.** The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of *HDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act."* this rule. ~~(4-5-00)~~(7-1-09)T

**a.** A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (4-5-00)

**b.** A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (4-5-00)

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, ~~amount and~~ copayment ~~percentage factors~~, or coinsurance amounts. Premiums may be modified to correspond with such changes. (4-5-00)(7-1-09)T

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium. (4-5-00)

e. Each Medicare supplement policy shall be guaranteed renewable. (4-5-00)

i. The issuer shall not cancel or non-renew the policy solely on the ground of health status of the individual. (4-5-00)

ii. The issuer shall not cancel or non-renew the policy for any reason other than nonpayment of premium or material misrepresentation. (4-5-00)

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under ~~Subsection paragraph 01021.01.e.v.~~, the issuer shall offer certificate-holders an individual Medicare supplement policy which (at the option of the certificate-holder): (4-5-00)(7-1-09)T

(1) Provides for continuation of the benefits contained in the group policy; or (4-5-00)

(2) Provides for benefits that otherwise meet the requirements of ~~this s~~Subsection 021.01 through 021.01.h.iv. (4-5-00)(7-1-09)T

iv. If an individual is a certificate-holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall (a) offer the certificate-holder the conversion opportunity described in ~~Subsection paragraph 01021.01.e.iii.~~; or, (b) at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy. (4-5-00)(7-1-09)T

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (4-5-00)

vi. If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, the modified policy shall be deemed to satisfy the guaranteed renewal requirements of ~~Section Paragraph 01021.01.e.~~ (4-11-06)(7-1-09)T

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss. (4-11-06)

g. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate-holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate-holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance. (4-5-00)(7-1-09)T

h. If suspension occurs and if the policyholder or certificate-holder loses entitlement to medical assistance, the policy or certificate shall be automatically re-instituted (effective as of the date of termination of

entitlement) as of the termination of entitlement if the policyholder or certificate-holder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. ~~(4-5-00)~~(7-1-09)T

iii. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within ninety (90) days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan. (5-3-03)

~~g~~iii. Reinstatement of coverages as defined in ~~Subsections paragraphs 01021.01.f.g.ii. and 01021.01.f.g.iii.:~~  
~~(5-3-03)~~(7-1-09)T

~~i~~(1) Shall not provide for any waiting period with respect to treatment of preexisting conditions; (4-5-00)

~~ii~~(2) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension. If the suspended Medicare supplement policy provided coverage for outpatient prescription drugs, reinstatement of the policy for Medicare Part D enrollees shall be without coverage for outpatient prescription drugs and shall otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension; and (4-11-06)

~~iii~~(3) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate-holder as the premium classification terms that would have applied to the policyholder or certificate-holder had the coverage not been suspended. ~~(4-5-00)~~(7-1-09)T

**h.** If an issuer makes a written offer to the Medicare Supplement policyholders or certificateholders of one (1) or more of its plans, to exchange during a specified period from his or her 1990 Standardized plan (as described in Section 023 of this rule) to a 2010 Standardized plan (as described in Section 024 of this rule), the offer and subsequent exchange shall comply with the following requirements: (7-1-09)T

i. An issuer need not provide justification to the director if the insured replaces a 1990 Standardized policy or certificate with an issue age rated 2010 Standardized policy or certificate at the insured's original issue age. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchange policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be filed with the director. (7-1-09)T

ii. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage. (7-1-09)T

iii. An issuer may not apply new preexisting condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized policy or certificate of the insured, but may apply preexisting condition limitations of no more than six (6) months to any added benefits contained in the new 2010 Standardized policy or certificate not contained in the exchanged policy. (7-1-09)T

iv. The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer or issue would be in violation of state or federal law. (7-1-09)T

**02. Standards for Basic (Core) Benefits Common to Benefit Plans A - J.** Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each perspective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it. (4-11-06)

- a.** Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; (4-5-00)
- b.** Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used; (4-5-00)
- c.** Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent (100%) of Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balances. (4-11-06)
- d.** Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; (4-5-00)
- e.** Coverage for the coinsurance amount, or in the case of hospital outpatient department services under a prospective payment system, the copayment amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible. In all cases involving hospital outpatient department services paid under a prospective payment system, the issuer is required to pay the copayment amount established by federal requirements, which will be either the amount established for the Ambulatory Payment Classification (APC) group, or a provider-elected reduced copayment amount. (4-11-06)

**03. Standards for Additional Benefits.** The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Section ~~01123~~ of ~~IDAPA 18.01.54~~, "~~Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.~~" this rule. ~~(4-5-00)~~(7-1-09)T

- a.** Medicare Part A deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period. (4-5-00)
- b.** Skilled nursing facility care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A. (4-5-00)
- c.** Medicare Part B deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement. (4-5-00)
- d.** Eighty percent (80%) of the Medicare Part B excess charges: Coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)
- e.** One hundred percent (100%) of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)
- f.** Basic outpatient prescription drug benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars (\$250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars (\$1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006. (4-11-06)
- g.** Extended outpatient prescription drug benefit. Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars (\$250) calendar year deductible, to a maximum of three thousand dollars (\$3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006. (4-11-06)

**h.** Medically necessary emergency care in a foreign country: Coverage to the extent not covered by Medicare for eighty-percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars (\$250), and a lifetime maximum benefit of fifty thousand dollars (\$50,000). For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset. (4-5-00)

**04. Preventive Medical Care Benefit.** Coverage for the following preventive health services not covered by Medicare: (4-11-06)

**a.** An annual clinical preventive medical history and physical examination that may include tests and services from ~~Subsection Paragraph 04021.04.b.c.~~, and patient education to address preventive health care measures. ~~(4-5-00)~~(7-1-09)T

**b.** Preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician. (4-11-06)

**c.** Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars (\$120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare. (4-11-06)

**05. At-Home Recovery Benefit.** Coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery. For purposes of this benefit, the following definitions shall apply: (4-5-00)

**a.** Activities of daily living include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings. (4-5-00)

**b.** Care provider. A duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses' registry. (4-5-00)

**c.** Home. Any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence. (4-5-00)

**d.** At-home recovery visit. The period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit. (4-5-00)

**06. Coverage Requirements and Limitations.** (4-5-00)

**a.** At-home recovery services provided must be primarily services which assist in activities of daily living. (4-5-00)

**b.** The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare. (4-5-00)

**c.** Coverage is limited to: (4-5-00)

**i.** No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare

- approved home health care visits under a Medicare approved home care plan of treatment; (4-5-00)
- ii. The actual charges for each visit up to a maximum reimbursement of forty dollars (\$40) per visit; (4-5-00)
  - iii. One thousand six hundred dollars (\$1,600) per calendar year; (4-5-00)
  - iv. Seven (7) visits in any one week; (4-5-00)
  - v. Care furnished on a visiting basis in the insured's home; (4-5-00)
  - vi. Services provided by a care provider as defined in this ~~s~~Section; (~~4-5-00~~)(7-1-09)T
  - vii. At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded; (4-5-00)
  - viii. At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit. (4-5-00)
- d.** Coverage is excluded for: (4-5-00)
- i. Home care visits paid for by Medicare or other government programs; and (4-5-00)
  - ii. Care provided by family members, unpaid volunteers or providers who are not care providers. (4-5-00)
- 07. Standards for Plan K and L.** (7-1-09)T
- a.** Standardized Medicare supplement benefit plan "K" shall consist of the following: (~~4-11-06~~)(7-1-09)T
- ~~a~~i. Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period; (4-11-06)
  - ~~b~~ii. Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any Medicare benefit period; (4-11-06)
  - ~~c~~iii. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance; (4-11-06)
  - ~~d~~iv. Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in ~~Subsection~~paragraph ~~01021.07.ja.x.~~; (~~4-11-06~~)(7-1-09)T
  - ~~e~~v. Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in ~~Subsection~~paragraph ~~01021.07.ja.x.~~; (~~4-11-06~~)(7-1-09)T
  - ~~f~~vi. Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in ~~Subsection~~paragraph ~~01021.07.ja.x.~~; (~~4-11-06~~)(7-1-09)T

~~g~~vii. Coverage for fifty percent (50%) under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in ~~Subsection paragraph 04021.07.ja.x.~~; (4-11-06)(7-1-09)T

~~h~~viii. Except for coverage provided in ~~Subsection paragraph 04021.07.a.ix.~~, coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in ~~Subsection paragraph 04021.07.ja.x.~~; (4-11-06)(7-1-09)T

~~i~~ix. Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and (4-11-06)

~~j~~x. Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of four thousand dollars (\$4,000) in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services. (4-11-06)

~~08~~b. **~~Standards for Plan L.~~** Standardized Medicare supplement benefit plan "L" shall consist of the following: (4-11-06)(7-1-09)T

~~a~~i. The benefits described in ~~Subsections paragraphs 04021.07.a.i. through 04021.07.ea.iii., and 04021.07.a.ix.~~; (4-11-06)(7-1-09)T

~~b~~ii. The benefit described in ~~Subsections paragraphs 04021.07.a.v. through 04021.07.ha.viii.~~ but substituting seventy-five percent (75%) for fifty percent (50%); and (4-11-06)(7-1-09)T

~~e~~iii. The benefit described in ~~Subsection paragraph 04021.07.ja.x.~~ but substituting two thousand dollars (\$2,000) for four thousand dollars (\$4,000). (4-11-06)(7-1-09)T

**022. BENEFIT STANDARDS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010.**

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage prior to June 1, 2010 remain subject to the requirements of Section 021. (7-1-09)T

**01. General Standards.** The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation. (7-1-09)T

**a.** A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (7-1-09)T

**b.** A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (7-1-09)T

**c.** A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such



changes. (7-1-09)T

**d.** No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium. (7-1-09)T

**e.** Each Medicare supplement policy shall be guaranteed renewable. (7-1-09)T

**i.** The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual. (7-1-09)T

**ii.** The issuer shall not cancel or nonrenew the policy for any reasons other than nonpayment of premium or material representation. (7-1-09)T

**iii.** If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Subparagraph 022.01.e.v. of this rule, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder): (7-1-09)T

(1) Provides for continuation of the benefits contained in the group policy; or (7-1-09)T

(2) Provides for benefits that otherwise meet the requirements of this Subsection. (7-1-09)T

**iv.** If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall: (7-1-09)T

(1) Offer the certificateholder the conversion opportunity described in Subparagraph 022.01.e.iii. of this rule; or (7-1-09)T

(2) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy. (7-1-09)T

**v.** If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (7-1-09)T

**f.** Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss. (7-1-09)T

**g.** A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance. (7-1-09)T

**i.** If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. (7-1-09)T

**ii.** Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the

policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within (90) days after the date of the loss and pays the premium attributed to the period, effective as of the date of termination of enrollment in the group health plan. (7-1-09)T

iii. Reinstitution of coverages as described in Subparagraphs 022.01.g.i. and 022.01.g.ii.; (7-1-09)T

(1) Shall not provide for any waiting period with respect to treatment of preexisting conditions; (7-1-09)T

(2) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and (7-1-09)T

(3) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended. (7-1-09)T

**02. Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M, and N.** Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it. (7-1-09)T

**a.** Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; (7-1-09)T

**b.** Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used; (7-1-09)T

**c.** Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance; (7-1-09)T

**d.** Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; (7-1-09)T

**e.** Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible; (7-1-09)T

**f.** Hospice Care. Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses. (7-1-09)T

**03. Standards for Additional Benefits.** The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by Section 024 of this rule. (7-1-09)T

**a.** Medicare Part A Deductible. Coverage for one hundred percent (100%) of the Medicare Part A inpatient hospital deductible amount per benefit period. (7-1-09)T

**b.** Medicare Part A Deductible. Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period. (7-1-09)T

**c.** Skilled Nursing Facility Care. Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A. (7-1-09)T

**d.** Medicare Part B Deductible. Coverage for one hundred percent (100%) of the Medicare Part B deductible amount per calendar year regardless of hospital confinement. (7-1-09)T

**e.** One Hundred Percent (100%) of the Medicare Part B Excess Charges. Coverage for all the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (7-1-09)T

**f.** Medically Necessary Emergency Care in a Foreign Country. Coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars (\$250), and a lifetime maximum benefit of fifty thousand dollars (\$50,000). For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset. (7-1-09)T

**0423. STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 1990 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY ON OR AFTER JULY 1, 1992 AND WITH AN EFFECTIVE DATE FOR COVERAGE PRIOR TO JUNE 1, 2010.**

**01. Policy Form or Certificate Form.** An issuer shall make available to each prospective policyholder and certificate-holder a policy form or certificate form containing only the basic core benefits, as defined in Subsection ~~0421.02~~. (4-5-00)(7-1-09)T

**02. Medicare Supplement Benefits.** No groups, packages, or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this state, except as may be permitted in Subsection ~~0423.07~~ and in Section ~~0425~~ of this rule. (4-11-06)(7-1-09)T

**03. Benefit Plans.** Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans "A" through "L" listed in this subsection and conform to the definitions in Section ~~0410~~ of this rule. Each benefit shall be structured in accordance with the format provided in Subsections ~~0421.02~~, ~~and 0421.03~~, ~~or 0421.07~~, ~~and 0408~~ and list the benefits in the order shown in this Subsection ~~04~~. For purposes of Section ~~0423~~, "structure, language, and format" means style, arrangement and overall content of a benefit. (4-11-06)(7-1-09)T

**04. Other Designations.** An issuer may use, in addition to the benefit plan designations required in Subsection ~~0423.03~~, other designations to the extent permitted by law. (4-5-00)(7-1-09)T

**05. Make-Up of Benefit Plans:** (4-5-00)(7-1-09)T

**a.** Standardized Medicare supplement benefit plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as defined in Subsection ~~0421.02~~. (4-5-00)(7-1-09)T

**b.** Standardized Medicare supplement benefit plan "B" shall include only the following: The core benefit as defined in Subsection ~~0421.02~~, plus the Medicare Part A deductible as defined in ~~Subsection Paragraph 0421.03.a~~. (4-5-00)(7-1-09)T

**c.** Standardized Medicare supplement benefit plan "C" shall include only the following: The core benefit as defined in Subsection ~~0421.02~~, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country as defined in ~~Subsections Paragraphs 0421.03.a. through 0421.03.c., and 0421.03.h., respectively~~. (4-5-00)(7-1-09)T

**d.** Standardized Medicare supplement benefit plan “D” shall include only the following: The core benefit (as defined in Subsection ~~04021.02~~), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in Subsections Paragraphs ~~04021.03.a., 04021.03.b., 04021.03.h., and Subsection 04021.05~~, respectively. ~~(4-5-00)(7-1-09)T~~

**e.** Standardized Medicare supplement benefit plan “E” shall include only the following: The core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in Subsections Paragraphs ~~04021.03.a., 04021.03.b., 04021.03.h., and Subsection 04021.04~~, respectively. ~~(4-5-00)(7-1-09)T~~

**f.** Standardized Medicare supplement benefit plan “F” shall include only the following: The core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, one hundred percent (100%) of the Medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in Subsections Paragraphs ~~04021.03.a. through 04021.03.c., 04021.03.e., and 04021.03.h.~~, respectively. ~~(4-5-00)(7-1-09)T~~

**g.** Standardized Medicare supplement benefit high deductible plan “F” shall include only the following: one hundred percent (100%) of covered expenses following the payment of the annual high deductible plan “F” deductible. The covered expenses include the core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Subsections Paragraphs ~~04021.03.a. through 04021.03.c., 04021.03.e., and 04021.03.h.~~, respectively. The annual high deductible plan “F” deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan “F” policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan “F” deductible shall be one thousand five hundred dollars (\$1,500) for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the Secretary of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars (\$10). ~~(4-11-06)(7-1-09)T~~

**h.** Standardized Medicare supplement benefit plan “G” shall include only the following: The core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, skilled nursing facility care, eighty percent (80%) of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in Subsections Paragraphs ~~04021.03.a., 04021.03.b., 04021.03.d., 04021.03.h., and Subsection 04021.05~~, respectively. ~~(4-5-00)(7-1-09)T~~

**i.** Standardized Medicare supplement benefit plan “H” shall consist of only the following: The core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit, and medically necessary emergency care in a foreign country as defined in Subsections Paragraphs ~~04021.03.a., 04021.03.b., 04021.03.f., and 04021.03.h.~~, respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005. ~~(4-11-06)(7-1-09)T~~

**j.** Standardized Medicare supplement benefit plan “I” shall consist of only the following: The core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in Subsections Paragraphs ~~04021.03.a., 04021.03.b., 04021.03.e., 04021.03.f., 04021.03.h., and Subsection 04021.05~~, respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005. ~~(4-11-06)(7-1-09)T~~

**k.** Standardized Medicare supplement benefit plan “J” shall consist of only the following: The core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in Subsections Paragraphs ~~04021.03.a. through 04021.03.c., 04021.03.e., 04021.03.g., 04021.03.h., and Subsections 04021.04 and 04021.05~~, respectively. The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005. ~~(4-11-06)(7-1-09)T~~

**1.** Standardized Medicare supplement benefit high deductible plan “J” shall consist of only the following: one hundred percent (100%) of covered expenses following the payment of the annual high deductible plan “J” deductible. The covered expenses include the core benefit as defined in Subsection ~~04021.02~~, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in Subsections Paragraphs 04021.03.a. through 04021.03.c., 04021.03.e., 04021.03.g., 04021.03.h., and Subsections 04021.04 and 04021.05, respectively. The annual high deductible plan “J” deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan “J” policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be one thousand five hundred dollars (\$1,500) for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the Secretary of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars (\$10). The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005. ~~(4-11-06)(7-1-09)T~~

**06. Make-Up of Two Medicare Supplement Plans Mandated by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA):** ~~(4-11-06)(7-1-09)T~~

**a.** Standardized Medicare supplement benefit plan “K” shall consist of only those benefits described in Subsection Paragraph 04021.07.01a. ~~(4-11-06)(7-1-09)T~~

**b.** Standardized Medicare supplement benefit plan “L” shall consist of only those benefits described in Subsection Paragraph 04021.087.02b. ~~(4-11-06)(7-1-09)T~~

**07. New or Innovative Benefits.** An issuer may, with the prior approval of the director, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goals of simplification of Medicare supplement policies. After December 31, 2005 the innovative benefit shall not include an outpatient prescription drug benefit. (4-11-06)

**024. STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010.**

**01. General Standards.** The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates with an effective date for coverage before June 1, 2010 remain subject to the requirements of Section 021 of this rule. (7-1-09)T

**a.** An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in Subsection 022.02 of this rule. (7-1-09)T

**b.** If an issuer makes available any of the additional benefits described in Subsection 022.03, or offers standardized benefit Plans K or L (as described in Paragraphs 024.02.h. and 024.02.i. of this rule), then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in Paragraph 024.01.a., a policy form or certificate form containing either standardized benefit Plan C (as described in Paragraph 024.02.c. of this rule) or standardized benefit Plan F (as described in Paragraph 024.02.e. of this rule). (7-1-09)T

**c.** No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this state, except as may be permitted in Subsection 024.03 and in Section 025 of this rule. (7-1-09)T

**d.** Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this Subsection and conform to the definitions in Section 010 of this rule. Each benefit shall be structured in accordance with the format provided in Subsections 022.02 and 022.03 of this rule; or, in the case of plans K or L, in Paragraphs 024.02.h. and 024.02.i. of this rule and list the benefits in the order shown. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of benefit. (7-1-09)T

**e.** In addition to the benefit plan designations required in Paragraph 024.01.d., an issuer may use other designations to the extent permitted by law. (7-1-09)T

**02. Make-up of 2010 Standardized Benefit Plans. (7-1-09)T**

**a.** Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in Subsection 022.02 of this rule. (7-1-09)T

**b.** Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible as defined in Paragraph 022.03.a. of this rule. (7-1-09)T

**c.** Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03. a., 022.03.c., 022.03.d., and 022.03.f of this rule, respectively. (7-1-09)T

**d.** Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit (as defined in Subsection 022.02 of this rule), plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03. a., 022.03.c., and 022.03.f. of this rule, respectively. (7-1-09)T

**e.** Standardized Medicare supplement [regular] Plan F shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, the skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., and 022.03.c., through 022.03.f. of this rule, respectively. (7-1-09)T

**f.** Standardized Medicare supplement Plan F With High Deductible shall include only the following: One hundred percent (100%) of covered expenses following the payment of the annual deductible set forth in Subparagraph 024.02.f.ii. (7-1-09)T

**i.** The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., and 022.03.c., through 022.03.f. of this rule, respectively. (7-1-09)T

**ii.** The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by [regular] Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be fifteen hundred dollars (\$1,500) and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars (\$10). (7-1-09)T

**g.** Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., 022.03.c., 022.03.e., and

022.03.f of this rule, respectively. (7-1-09)T

**h.** Standardized Medicare supplement Plan K is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following: (7-1-09)T

**i.** Part A Hospital Coinsurance sixty-first through ninetieth days: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period. (7-1-09)T

**ii.** Part A Hospital Coinsurance ninetieth through one hundred fiftieth day: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninetieth through the one hundred fiftieth day in any Medicare benefit period; (7-1-09)T

**iii.** Part A Hospitalization After One Hundred Fiftieth Day: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance; (7-1-09)T

**iv.** Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (7-1-09)T

**v.** Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (7-1-09)T

**vi.** Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (7-1-09)T

**vii.** Blood: Coverage for fifty percent (50%), under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (7-1-09)T

**viii.** Part B Cost Sharing: Except for coverage provided in Subparagraph 024.02.h.ix., coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (7-1-09)T

**ix.** Part B Preventive Services: Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and (7-1-09)T

**x.** Cost Sharing After Out-of-Pocket Limits: Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of four thousand dollars (\$4,000) in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services. (7-1-09)T

**i.** Standardized Medicare supplement Plan L is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following: (7-1-09)T

**i.** The benefits described in Subparagraphs 024.02.h.i. through 024.02.h.iii., and 024.02.h.ix. (7-1-09)T

ii. The benefits described in Subparagraphs 024.02.h.iv. through 024.02.h.viii. but substituting seventy-five percent (75%) for fifty percent (50%); and (7-1-09)T

iii. The benefit described in Subparagraph 024.02.h.x. but substituting two thousand dollars (\$2,000) for four thousand dollars (\$4,000). (7-1-09)T

j. Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus fifty percent (50%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.b., 022.03.c., and 022.03.f. of this rule, respectively. (7-1-09)T

k. Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in Subsection 022.02 of this rule, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in foreign country as defined in Paragraphs 022.03.a., 022.03.c., and 022.03.f. of this rule, respectively, with copayments in the following amounts: (7-1-09)T

i. The lesser of twenty dollars (\$20) or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialists); and (7-1-09)T

ii. The lesser of fifty dollars (\$50) or the Medicare Part B coinsurance or copayment for each covered emergency room visit, however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense. (7-1-09)T

**03. New or Innovative Benefits.** An issuer may, with the prior approval of the director, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan. (7-1-09)T

**0425. MEDICARE SELECT POLICIES AND CERTIFICATES.**

This §Section shall apply to Medicare Select policies and certificates, as defined in this §Section. No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this §Section. (4-5-00)(7-1-09)T

**01. Definitions.** For the purposes of Section 0425: (4-5-00)(7-1-09)T

**a. Complaint.** Any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers. (4-5-00)

**b. Grievance.** Dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers. (4-5-00)

**c. Medicare Select issuer.** An issuer offering, or seeking to offer, a Medicare Select policy or certificate. (4-5-00)

**d. Medicare Select policy or Medicare Select certificate.** Respectively a Medicare supplement policy or certificate that contains restricted network provisions. (4-5-00)

**e. Network provider.** A provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy. (4-5-00)

**f. Restricted network provision.** Any provision which conditions the payment of benefits, in whole or



in part, on the use of network providers. (4-5-00)

**g.** Service area. The geographic area approved by the director within which an issuer is authorized to offer a Medicare Select policy. (4-5-00)

**02. Authorization to Issue Medicare Select Policy or Certificate.** The director may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to Section 0425 of ~~these~~ this rules and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the director finds that the issuer has satisfied all of the requirements of ~~IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act."~~ this rule. (~~4-5-00~~)(7-1-09)T

**03. Filing Requirements.** A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the director. (4-5-00)

**04. Proposed Plan of Operation.** A Medicare Select issuer shall file a proposed plan of operation with the director in a format prescribed by the director. The plan of operation shall contain at least the following information: (4-5-00)

**a.** Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that: (4-5-00)

**i.** Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community. (4-5-00)

**ii.** The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either to deliver adequately all services that are subject to a restricted network provision or to make appropriate referrals. (4-5-00)

**iii.** There are written agreements with network providers describing specific responsibilities. (4-5-00)

**iv.** Emergency care is available twenty-four (24) hours per day and seven (7) days per week. (4-5-00)

**v.** In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This ~~Subsection~~ paragraph 012.04.a.v. shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate. (~~4-11-06~~)(7-1-09)T

**b.** A statement or map providing a clear description of the service area. (4-5-00)

**c.** A description of the grievance procedure to be utilized. (4-5-00)

**d.** A description of the quality assurance program, including: (4-5-00)

**i.** The formal organizational structure; (4-5-00)

**ii.** The written criteria for selection, retention, and removal of network providers; and (4-5-00)

**iii.** The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted. (4-5-00)

**e.** A list and description, by specialty, of the network providers. (4-5-00)

**f.** Copies of the written information proposed to be used by the issuer to comply with Subsection 0425.08. (~~4-5-00~~)(7-1-09)T

- g.** Any other information requested by the director. (4-5-00)
- 05. Proposed Changes to the Plan of Operation.** A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the director prior to implementing the changes. Changes shall be considered approved by the director after thirty (30) days unless specifically disapproved. An updated list of network providers shall be filed with the director at least quarterly. (4-5-00)
- 06. Restrictions.** A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if: (4-5-00)
- a.** The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and (4-5-00)
- b.** It is not reasonable to obtain services through a network provider. (4-5-00)
- 07. Payment for Full Coverage.** A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers. (4-5-00)
- 08. Full and Fair Disclosure.** A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following: (4-5-00)
- a.** An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with: (4-5-00)
- i.** Other Medicare supplement policies or certificates offered by the issuer; and (4-5-00)
- ii.** Other Medicare Select policies or certificates. (4-5-00)
- b.** A description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers. (4-5-00)
- c.** A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized. Except to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers do not count toward the out-of-pocket annual limit contained in plans K and L. (4-11-06)
- d.** A description of coverage for emergency and urgently needed care and other out-of-service area coverage. (4-5-00)
- e.** A description of limitations on referrals to restricted network providers and to other providers. (4-5-00)
- f.** A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer. (4-5-00)
- g.** A description of the Medicare Select issuer's quality assurance program and grievance procedure. (4-5-00)
- 09. Medicare Select Policy or Certificate.** Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection ~~0425.08 of this section~~ and that the applicant understands the restrictions of the Medicare Select policy or certificate. ~~(4-5-00)~~(7-1-09)T
- 10. Complaints and Grievances.** A Medicare Select issuer shall have and use procedures for hearing

complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures. (4-5-00)

**a.** The grievance procedure shall be described in the policy and certificates and in the outline of coverage. (4-5-00)

**b.** At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer. (4-5-00)

**c.** Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action. (4-5-00)

**d.** If a grievance is found to be valid, corrective action shall be taken promptly. (4-5-00)

**e.** All concerned parties shall be notified about the results of a grievance. (4-5-00)

**f.** The issuer shall report no later than each March 31 to the director regarding its grievance procedure. The report shall be in a format prescribed by the director and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances. (4-5-00)

**11. Initial Purchase.** At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer. (4-5-00)

**12. Comparable or Lesser Benefits.** (4-5-00)

**a.** At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months. (4-5-00)

**b.** For the purposes of Subsection 0425.12, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of ~~Subsection 012.12.b.~~ this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges. ~~(4-11-06)(7-1-09)T~~

**13. Continuation of Coverage.** Medicare Select policies and certificates shall provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare Select policies and certificates issued pursuant to this ~~Section~~ should be discontinued due to either the failure of the Medicare Select program to be re-authorized under law or its substantial amendment. ~~(4-5-00)(7-1-09)T~~

**a.** Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the insurer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability. (4-5-00)

**b.** For the purposes of Subsection 0425.13, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of ~~Subsection 012.13.b.~~ this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges. ~~(4-11-06)(7-1-09)T~~

**14. Requests for Data.** A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program. (4-5-00)

**01326. OPEN ENROLLMENT.**

**01. Offer of Coverage.** An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is both sixty-five (65) years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under this Subsection ~~013.01~~ without regard to age. ~~(4-5-00)(7-1-09)T~~

**a.** If an applicant qualifies under Subsection ~~01326.01~~ and submits an application during the time period referenced in Subsection ~~01326.01~~ and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition. ~~(4-5-00)(7-1-09)T~~

**b.** If the applicant qualifies under Subsection ~~01326.01~~ and submits an application during the time period referenced in Subsection ~~01326.01~~ and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary of Health and Human Services shall specify the manner of the reduction under this ~~Subsection~~. ~~(4-11-06)(7-1-09)T~~

**c.** Except as provided in Subsection ~~01326.01-a~~, and Sections ~~01427~~ and ~~02538~~, Subsection ~~01326.01-a~~ shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate-holder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective. ~~(4-11-06)(7-1-09)T~~

**01427. GUARANTEED ISSUE FOR ELIGIBLE PERSONS.**

**01. Guaranteed Issue.** (4-5-00)

**a.** Eligible persons are those individuals described in Subsection ~~01427.02~~ who seek to enroll under the policy during the period specified in Subsection ~~01427.053~~, and who submit evidence of the date of termination or disenrollment or Medicare Part D enrollment with the application for a Medicare supplement policy. ~~(4-11-06)(7-1-09)T~~

**b.** With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection ~~01427.05~~ that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. ~~(4-11-06)(7-1-09)T~~

**02. Eligible Persons.** An eligible person is an individual described here in any part of Subsection ~~01427.02~~: ~~(4-11-06)(7-1-09)T~~

**a.** The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefits plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan; (4-5-00)

**b.** The individual is enrolled with a Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, and any of the following circumstances apply, or the individual is sixty-five (65) years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare

- Advantage plan: (4-11-06)
- i. The certification of the organization or plan under this part has been terminated; (4-11-06)
  - ii. The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides; (4-11-06)
  - iii. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary of Health and Human Services, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; (4-11-06)
  - iv. The individual demonstrates, in accordance with guidelines established by the Secretary of Health and Human Services; (7-1-09)T
- (a) ~~That~~ the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or (7-1-09)T
- (b) ~~The~~ organization, or agent, or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or (7-1-09)T
- (c) ~~The~~ individual meets such other exceptional conditions as the Secretary may provide. ~~(4-11-06)~~(7-1-09)T
- c. The individual is enrolled with: (4-5-00)
    - i. An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost); (5-3-03)
    - ii. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; (4-5-00)
    - iii. An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or (5-3-03)
    - iv. An organization under a Medicare Select policy; and (4-5-00)
  - d. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under ~~Subsection Paragraph 01427.02.b.~~ (4-5-00)(7-1-09)T
  - e. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because: (4-5-00)
    - i. Of the insolvency of the issuer or bankruptcy of the non-issuer organization; or (4-5-00)
    - ii. Of other involuntary termination of coverage or enrollment under the policy; (4-5-00)
    - iii. The issuer of the policy substantially violated a material provision of the policy; or (4-5-00)
    - iv. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual. (4-5-00)
  - f. The individual was enrolled under a Medicare supplement policy and terminates enrollment and

subsequently enrolls, for the first time, with any Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act, or a Medicare Select policy; and (4-11-06)

**g.** The subsequent enrollment under *Subsection Paragraph 01427.02.f.* is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or ~~(4-5-00)(7-1-09)T~~

**h.** The individual, upon first becoming eligible for benefits under Part A of Medicare at age sixty-five (65), enrolls in a Medicare Advantage plan under Part C of Medicare, or with a PACE provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment. (4-11-06)

**i.** The individual enrolls in a Medicare Part D plan during the initial enrollment period and at the time of enrollment in Part D, was enrolled under Medicare supplement policy that covers outpatient prescription drugs and the individual terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in *Subsection Paragraph 01427.05.e.* ~~(4-11-06)(7-1-09)T~~

**03. Guaranteed Issue Time Periods.** (5-3-03)

**a.** In the case of an individual described in *Subsection Paragraph 01427.02.a.*, the guaranteed issue period begins on the later of the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of a termination or cessation); or the date that the applicable coverage terminates or ceases; and ends sixty-three (63) days thereafter; ~~(4-11-06)(7-1-09)T~~

**b.** In the case of an individual described in *Subsections Paragraphs 01427.02.b.*, *01427.02.c.*, *01427.02.f.*, ~~*014.02.g.*~~, or *01427.02.h.*, whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated; ~~(4-11-06)(7-1-09)T~~

**c.** In the case of an individual described in *Subsections Paragraph 01427.02.e.i. and 014.02.e.ii.*, the guaranteed issue period begins on the earlier of: ~~(5-3-03)(7-1-09)T~~

**i.** The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; and (5-3-03)

**ii.** The date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated; (5-3-03)

**d.** In the case of an individual described in *Subsections Paragraph 01427.02.b.* and *Subparagraph 01427.02.ee.iii.*, and *Subparagraph 01427.02.fe.iv.*, *Paragraph 01427.02.gf.*, or *01427.02.h.*, who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and ~~(4-11-06)(7-1-09)T~~

**e.** In the case of an individual described in *Subsection Paragraph 01427.02.i.*, the guaranteed issue period begins on the date the individual receives notice pursuant to Section 1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the sixty-day (60) period immediately preceding the initial Part D enrollment period and ends on the date that is sixty-three (63) days after the effective date of the individual's coverage under Medicare Part D; and ~~(4-11-06)(7-1-09)T~~

**f.** In the case of an individual described in *Subsection 01427.02* but not described in the preceding provisions of *Subsection 01427.03*, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date. ~~(4-11-06)(7-1-09)T~~

**04. Extended Medigap Access for Interrupted Trial Periods.** (5-3-03)

a. In the case of an individual described in ~~Subsection Paragraph 01427.02.f.~~ (or deemed to be so described, pursuant to this ~~Subsection 014.04.a. Paragraph~~) whose enrollment with an organization or provider described in ~~Subsection Paragraph 01427.02.f.~~ is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in ~~Subsection Paragraph 01427.02.f.~~; ~~(4-11-06)(7-1-09)T~~

b. In the case of an individual described in ~~Subsection Paragraph 01427.02.h.~~ (or deemed to be so described, pursuant to this ~~Subsection 014.04.b. Paragraph~~) whose enrollment with a plan or in a program described in ~~Subsection Paragraph 01427.02.h.~~ is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in ~~Subsection Paragraph 01427.02.h.~~; and ~~(4-11-06)(7-1-09)T~~

c. For purposes of ~~Subsection Paragraphs 01427.02.f. and 01427.02.h.~~, no enrollment of an individual with an organization or provider described in ~~Subsection Paragraph 01427.02.f.~~ or with a plan or in a program described in ~~Subsection Paragraph 01427.02.h.~~ may be deemed to be an initial enrollment under ~~Subsection 014.04.e. this Paragraph~~ after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program. ~~(5-3-03)(7-1-09)T~~

**05. Products to Which Eligible Persons are Entitled.** The Medicare supplement policy to which eligible persons are entitled under: (4-11-06)

a. ~~Subsections Paragraphs 01427.02.a. through 01427.02.e. and 014.02.g.~~ is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F (including F with a high deductible), K or L offered by any issuer. ~~(4-11-06)(7-1-09)T~~

b. Subject to Paragraph 027.05.c., ~~Subsection Paragraph 01427.02.g.~~ is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in ~~Subsection Paragraph 01427.05.a.~~ ~~(4-11-06)(7-1-09)T~~

c. After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit, a Medicare supplement policy described in Subsection ~~01427.05~~ is: ~~(4-11-06)(7-1-09)T~~

i. The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or (4-11-06)

ii. At the election of the policyholder, an A, B, C, F (including F with a high deductible), K or L policy that is offered by any issuer; (4-11-06)

d. ~~Subsection Paragraph 01427.02.h.~~ shall include any Medicare supplement policy offered by any issuer. ~~(4-11-06)(7-1-09)T~~

e. ~~Subsection Paragraph 01427.02.i.~~ is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage. ~~(4-11-06)(7-1-09)T~~

**06. Notification Provisions.** (4-5-00)

a. At the time of an event described in Subsection ~~01427.02~~ of this ~~section rule~~ because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under ~~this Section 014~~, and of the

obligations of issuers of Medicare supplement policies under Subsection ~~04427~~.01. Such notice shall be communicated contemporaneously with the notification of termination. ~~(4-5-00)~~(7-1-09)T

**b.** At the time of an event described in Subsection ~~04427~~.02 ~~of this section~~ because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this ~~s~~Section, and of the obligations of issuers of Medicare supplement policies under Subsection ~~04427~~.01. Such notice shall be communicated within ten (10) working days of the issuer receiving notification of disenrollment. ~~(4-5-00)~~(7-1-09)T

**~~04528~~. STANDARDS FOR CLAIMS PAYMENT.**

**01. Compliance.** An issuer shall comply with Section 1882(c)(3) of the Social Security Act (as enacted by Section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Pub. L. No. 100-203) by: ~~(4-5-00)~~(7-1-09)T

- a.** Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice; (4-5-00)
- b.** Notifying the participating physician or supplier and the beneficiary of the payment determination; (4-5-00)
- c.** Paying the participating physician or supplier directly; (4-5-00)
- d.** Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number and a central mailing address to which notices from a Medicare carrier may be sent; (4-5-00)
- e.** Paying user fees for claim notices that are transmitted electronically or otherwise; and (4-5-00)
- f.** Providing to the Secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers. (4-5-00)

**02. Certification.** Compliance with the requirements set forth in Subsection ~~04528~~.01 shall be certified on the Medicare supplement insurance experience reporting form. ~~(4-5-00)~~(7-1-09)T

**~~04629~~. LOSS RATIO STANDARDS AND REFUND OR CREDIT OF PREMIUM.**

**01. Loss Ratio Standards.** (4-5-00)

**a.** A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form. (4-5-00)

- i.** At least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies; or (4-5-00)
- ii.** At least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies; (4-5-00)

**b.** Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a managed care organization on a service rather than reimbursement basis and earned premiums for the period and in accordance with accepted actuarial principles and practices. Incurred health care expenses where coverage is provided by a managed care organization shall not include: (4-11-06)

- i.** Home office and overhead costs; (4-11-06)



- ii. Advertising costs; (4-11-06)
- iii. Commissions and other acquisition costs; (4-11-06)
- iv. Taxes; (4-11-06)
- v. Capital costs; (4-11-06)
- vi. Administrative costs; and (4-11-06)
- vii. Claims processing costs. (4-11-06)

**c.** All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

~~(4-5-00)~~(7-1-09)T

**d.** For purposes of applying ~~Subsections Paragraphs 04629.01.a. and 04730.045.eb.~~, only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

~~(4-11-06)~~(7-1-09)T

**e.** For policies issued prior to July 1, 1992, expected claims in relation to premiums shall meet: (4-5-00)

i. The originally filed anticipated loss ratio when combined with the actual experience since inception; (4-5-00)

ii. The appropriate loss ratio requirement from ~~Subsection paragraphs 04629.01.a.i. and 04629.01.a.ii.~~ when combined with actual experience beginning with July 1, 1992 to date; and ~~(4-5-00)~~(7-1-09)T

iii. The appropriate loss ratio requirement from ~~Subsection paragraphs 04629.01.a.i. and 04629.01.a.ii.~~ over the entire future period for which the rates are computed to provide coverage. ~~(4-5-00)~~(7-1-09)T

**02. Refund or Credit Calculation. (4-5-00)**

**a.** An issuer shall collect and file with the director by May 31 of each year the data contained in the applicable reporting form as defined by NAIC Model Regulation (Attachments) and accessible by the Internet (www.doi.idaho.gov) for each type in a standard Medicare supplement benefit plan. (4-11-06)

**b.** If on the basis of the experience as reported the benchmark ratio since inception (ratio one (1)) exceeds the adjusted experience ratio since inception (ratio three (3)), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded. (4-5-00)

**c.** For the purpose of Section ~~04629~~, policies or certificates issued prior to July 1, 1992, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after July 1, 1992. The first report shall be due by May 31, 1994. ~~(4-5-00)~~(7-1-09)T

**d.** A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credit exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for thirteen (13) week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience

year upon which the refund or credit is based. (4-5-00)

**03. Annual Filing of Premium Rates.** An issuer of Medicare supplement policies and certificates issued before or after the effective date of July 1, 1992, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the director in accordance with the filing requirements and procedures prescribed by the director. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the director, in accordance with the applicable filing procedures of this state: (4-5-00)

**a.** Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing. (4-5-00)

**b.** An issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date. (4-5-00)

**c.** If an issuer fails to make premium adjustments acceptable to the director, the director may order premium adjustments, refunds, or premium credits deemed necessary to achieve the loss ratio required by Section ~~04629~~. ~~(4-5-00)~~(7-1-09)T

**d.** Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate. (4-5-00)

**04. Public Hearings.** The director may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of July 1, 1992 if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the director. (4-5-00)

**04730. FILING AND APPROVAL OF POLICIES AND CERTIFICATES AND PREMIUM RATES.**

**01. Filing ~~and Premium Rates~~ of Policy Forms.** (7-1-09)T

**a.** An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the director in accordance with filing requirements and procedures prescribed by the director. (7-1-09)T

**b.** An issuer shall file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 only with the director in the state in which the policy or certificate was issued. (7-1-09)T

**02. Filing of Premium Rates.** (7-1-09)T

**a.** An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the director in

accordance with the filing requirements and procedures prescribed by the director. (7-1-09)T

**b.** Except as provided in Subsection ~~01729.03~~, the insured shall not receive more than one (1) rate increase in any twelve (12) month period. ~~(4-11-06)~~(7-1-09)T

~~**03.**~~ Except as provided in ~~Subsection Paragraph 01730.013.b.a.~~, an issuer shall not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit plan. ~~(4-5-00)~~(7-1-09)T

**b.a.** An issuer may offer, with the approval of the director, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) or each of the following cases: (4-5-00)

- i. The inclusion of new or innovative benefits; (4-5-00)
- ii. The addition of either direct response or agent marketing methods; (4-5-00)
- iii. The addition of either guaranteed issue or underwritten coverage; (4-5-00)
- iv. The offering of coverage to individuals for Medicare by reason of disability. (4-5-00)

**b.b.** For the purposes of Subsection ~~01730.013~~, "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy. ~~(4-11-06)~~(7-1-09)T

**024. Availability of Policy Form or Certificate.** Except as provided in ~~Subsection Paragraph 01730.024.a.~~, an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of ~~IDAPA 18-01-54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," that has been approved by the director~~ this rule. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months. ~~(4-5-00)~~(7-1-09)T

**a.** An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the director in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of this notice by the director, the issuer shall no longer offer for sale the policy form or certificate form in this state. (4-5-00)

**b.** An issuer that discontinues the availability of a policy form or certificate form pursuant to ~~Subsection Paragraph 01730.024.a.~~ shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the director of the discontinuance. The period of discontinuance may be reduced if the director determines that a shorter period is appropriate. ~~(4-5-00)~~(7-1-09)T

**c.** The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of Subsection ~~01730.024~~. ~~(4-11-06)~~(7-1-09)T

**d.** A change in the rating structure or methodology shall be considered a discontinuance under this Subsection ~~01730.024~~ unless the issuer complies with the following requirements: ~~(4-5-00)~~(7-1-09)T

i. The issuer provides an actuarial memorandum, in a form and manner prescribed by the director, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates. (4-5-00)

ii. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The director may approve a change to the differential which is in the public interest. (4-5-00)

**035. Experience of Policy Forms.** (4-5-00)

a. Except as provided in ~~Subsection Paragraph 01730.035.b.~~, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section ~~01629.~~ ~~(4-5-00)(7-1-09)T~~

b. Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation. (4-5-00)

**046. Attained Age Rating Prohibited.** With respect to Medicare supplement policies that conform to the ~~Fee~~ Standard Benefit Plans developed by the National Association of Insurance Commissioners and adopted by the State of Idaho July 1, 1992, under IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," sold to residents of this state and all those sold on or after January 1, 1995, it is an unfair practice and an unfair method of competition for any issuer, insurer, or licensee to use the increasing age of an insured, subscriber or participant as the basis for increasing premiums or prepayment charges for policyholders who initially purchase a policy after January 1, 1995. This rule explicitly authorizes both issue age ratings and community ratings consistent with the prohibition of attained age ratings and allows companies to resubmit for approval issue age ratings previously rejected. ~~(4-5-00)(7-1-09)T~~

**057. Rating by Area and Gender Prohibited.** With respect to Medicare supplement policies that conform to the ~~Fee~~ Standard Benefit Plans developed by the National Association of Insurance Commissioners and adopted by the State of Idaho, July 1, 1992, under IDAPA 18.01.54, "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act," sold to residents of this State and all those sold on or after January 1, 1999, it is an unfair practice and an unfair method of competition for any issuee, issuer, or licensee to use area or gender for rating purpose. ~~(4-5-00)(7-1-09)T~~

#### **04831. PERMITTED COMPENSATION ARRANGEMENTS.**

**01. Commissions.** An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first-year commission or other first-year compensation is no more than two hundred percent (200%) of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period. (4-5-00)

**02. Compensation in Subsequent Years.** The commission or other compensation provided in subsequent renewal years must be the same as that provided in the second year or period and must be provided for no fewer than five (5) renewal years. (4-11-06)

**03. Renewal Compensation.** No issuer or other entity shall provide compensation to its agent or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced. (4-5-00)

**04. Compensation.** For purposes of Section ~~04831~~, compensation includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, awards, and finder's fees. ~~(4-5-00)(7-1-09)T~~

#### **04932. REQUIRED DISCLOSURE PROVISIONS.**

**01. General Rules.** (4-5-00)

a. Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums ~~and any automatic renewal premium increases based on the policyholder's age.~~ ~~(4-5-00)(7-1-09)T~~

b. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare

supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing and signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy. (4-5-00)

**c.** Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as “usual and customary,” “reasonable and customary,” or words of similar import. (4-5-00)

**d.** If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as “Preexisting Condition Limitations.” (4-5-00)

**e.** Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto, stating in substance that the policyholder or certificate-holder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason. (4-5-00)(7-1-09)T

**f.** Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to those applicants a “Guide to Health Insurance for People with Medicare” in the form developed jointly by the National Association of Insurance Commissioners and the Centers for Medicare & Medicaid Services and in a type size no smaller than twelve (12) point type. Delivery of the Guide shall be made whether or not the policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this rule. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the Guide shall be obtained by the issuer. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered. (4-11-06)

**g.** For the purposes of Section 04932, “form” means the language, format, type size, type proportional spacing, bold character, and line spacing. (4-11-06)(7-1-09)T

**02. Notice Requirements.** (4-5-00)

**a.** As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the director. The notice shall: (4-5-00)

**i.** Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate, and (4-5-00)

**ii.** Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare. (4-5-00)

**b.** The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension. (4-5-00)

**c.** The notices shall not contain or be accompanied by any solicitation. (4-5-00)

**03. Medicare Prescription Drug, Improvement, and Modernization Act of 2003 Notice Requirements.** Issuers shall comply with any notice requirements of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. (4-11-06)

**04. Outline of Coverage Requirements for Medicare Supplement Policies.** (4-5-00)

a. Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgment of receipt of the outline from the applicant; and (4-5-00)

b. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name:

**“NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.”** (4-5-00)

c. The outline of coverage provided to applicants pursuant to this ~~§~~Section consists of four (4) parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than twelve (12) point type. All plans ~~A-L~~ shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated. (~~4-11-06~~)(7-1-09)T

**05. Notice Regarding Policies or Certificates Which ~~are~~ Are Not Medicare Supplement Policies.** (~~4-5-00~~)(7-1-09)T

a. Any accident and sickness insurance policy or certificate other than Medicare supplement policy and policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. Section 1395 et seq.), disability income policy; or other policy identified in ~~Subsection Paragraph~~ 001.02.b. of this rule, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than twelve (12) point type and shall contain the following language:

**“THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company.”** (~~4-11-06~~)(7-1-09)T

b. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in ~~Subsection Paragraph~~ ~~04932.04.a.~~ shall disclose, using the applicable NAIC Model Regulation as incorporated by reference in Section 004 of this rule and referenced as Appendix C located ~~on the Internet~~ at ([www.doi.idaho.gov](http://www.doi.idaho.gov), - select ~~Senior Services for People on Medicare under the Consumer Services link~~, see ~~Attachments incorporated documents to NAIC Model Act implementing the Medicare supplement insurance minimum standards IDAPA 18.01.54 - “Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act”~~), the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate. (~~4-11-06~~)(7-1-09)T

**02033. REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.**

**01. Application Forms.** Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has another Medicare supplement, Medicare Advantage, Medicaid coverage, or another health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used. (4-11-06)

**02. Statements.** (4-5-00)

- a.** You do not need more than one (1) Medicare supplement policy. (4-5-00)
- b.** If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages. (4-5-00)
- c.** You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy. (4-5-00)
- d.** If, after purchasing this policy, you become eligible for Medicaid, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for twenty-four (24) months. You must request this suspension within ninety (90) days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within ninety (90) days of losing Medicaid eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension. (4-11-06)
- e.** If you are eligible for, and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within ninety (90) days of losing your employer or union-based health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension. (4-11-06)
- f.** Counseling services are available through the Senior Health Insurance Benefit Advisors program (SHIBA), to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB). (4-11-06)
- 03. Questions.** See Idaho Appendix A at the end of this *chapter rule*. ~~(4-11-06)~~(7-1-09)T
- 04. Agents.** Agents shall list any other health insurance policies they have sold to the applicant. (4-5-00)
- a.** List policies sold which are still in force. (4-5-00)
- b.** List policies sold in the past five (5) years which are no longer in force. (4-5-00)
- 05. Direct Response Issuer.** In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy. (4-5-00)
- 06. Notice Regarding Replacement of Medicare Supplement Coverage.** Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One (1) copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage. (4-5-00)
- 07. SHIBA And Consumer Assistance Link.** The notice required in Subsection 02033.06 for an

issuer shall be provided in substantially the following form based on the NAIC Model Regulation as incorporated by reference in Section 004 of this rule, which includes NAIC Appendixes A, B, and C and all other outlines of coverage and specific plan designs. For the website, go to Idaho Department of Insurance ~~Home Page~~; at [www.doi.idaho.gov](http://www.doi.idaho.gov), select Senior Services for People on Medicare under Consumer Services link, see Attachments incorporated documents to NAIC Model Act implementing the Medicare supplement insurance minimum standards IDAPA 18.01.54 - "Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act". To obtain a copy of the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250. ~~(4-11-06)(7-1-09)T~~

**~~02134.~~ FILING REQUIREMENTS FOR ADVERTISING.**

An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio, or television medium to the director for review or approval by the director. (4-5-00)

**~~02235.~~ STANDARDS FOR MARKETING.**

**01. Issuer.** An issuer, directly or through its producers, shall: (4-5-00)

**a.** Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate. (4-5-00)

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

**c.** Display prominently by type, stamp, or other appropriate means, on the first page of the policy the following:

**“Notice to buyer: This policy may not cover all of your medical expenses.”** (4-5-00)

**d.** Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance. (4-5-00)

**e.** Establish auditable procedures for verifying compliance with this Subsection ~~02235.01.~~ ~~(4-5-00)(7-1-09)T~~

**02. Prohibited Acts and Practices.** In addition to the practices prohibited in Chapter 13, Title 41, Idaho Code, the following acts and practices are prohibited: (4-5-00)

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

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

**c.** Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company. (4-5-00)

**03. Prohibited Terms.** The terms “Medicare supplement,” “Medigap,” “Medicare wrap-around,” and words of similar import shall not be used unless the policy is issued in compliance with ~~IDAPA 18.01.54, “Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act.”~~ this rule. ~~(4-5-00)(7-1-09)T~~

**~~0236.~~ APPROPRIATENESS OF RECOMMENDED PURCHASE AND EXCESSIVE INSURANCE.**

In recommending the purchase or replacement of any Medicare supplement policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement. Any sale of



Medicare supplement policy or certificate that will provide an individual more than one Medicare supplement policy or certificate is prohibited. An issuer shall not issue a Medicare supplement policy or certificate to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage. (4-11-06)

**02437. REPORTING OF MULTIPLE POLICIES.**

**01. Reporting.** On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one (1) Medicare supplement policy or certificate: (4-5-00)

- a.** Policy and certificate number, and (4-5-00)
- b.** Date of issuance. (4-5-00)

**02. Grouping by Individual Policyholder.** The items set forth above must be grouped by individual policyholder. (4-5-00)

**02538. PROHIBITION AGAINST PREEXISTING CONDITIONS, WAITING PERIODS, ELIMINATION PERIODS AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES.**

**01. Waiving of Time Periods.** If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate for similar benefits to the extent such time was spent under the original policy. (4-5-00)

**02. Replacing Policy.** If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at last six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods for benefits similar to those contained in the original policy or certificate. (4-5-00)

**039. PROHIBITION AGAINST USE OF GENETIC INFORMATION AND REQUESTS FOR GENETIC TESTING. THIS SECTION APPLIES TO ALL POLICIES WITH POLICY YEARS BEGINNING ON OR AFTER MAY 21, 2009.**

**01. Prohibited Provisions.** An issuer of a Medicare supplement policy or certificate: (7-1-09)T

**a.** Shall not deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a preexisting condition) on the basis of the genetic information with respect to such individual; and (7-1-09)T

**b.** Shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual. (7-1-09)T

**02. Denial of Coverage.** Nothing in Subsection 039.01 shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from: (7-1-09)T

**a.** Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or (7-1-09)T

**b.** Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group). (7-1-09)T

**03. Genetic Testing.** An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test. (7-1-09)T

**04. Payment.** Subsection 039.03 shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under part C of title XI and Section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with Subsection 039.01. of this rule. (7-1-09)T

**05. Information.** For purposes of carrying out Subsection 039.04, an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose. (7-1-09)T

**06. Allowed Genetic Testing.** Notwithstanding Subsection 039.03, an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met: (7-1-09)T

**a.** The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or rules for the protection of human subjects in research. (7-1-09)T

**b.** The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that: (7-1-09)T

**i.** Compliance with the request is voluntary; and (7-1-09)T

**ii.** Non-compliance will have no effect on enrollment status or premium or contribution amounts. (7-1-09)T

**c.** No genetic information collected or acquired under Subsection 039.06 shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate. (7-1-09)T

**d.** The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under Subsection 039.06, including a description of the activities conducted. (7-1-09)T

**e.** The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under Subsection 039.06. (7-1-09)T

**f.** An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes. (7-1-09)T

**g.** An issuer of a Medicare supplement policy or certificate shall not request, require or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment. (7-1-09)T

**h.** If an issuer of Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning an individual, such request, requirement, or purchase shall not be considered a violation of Paragraph 039.06.g. if such request, requirement, or purchase is not in violation of Paragraph 039.06.f. (7-1-09)T

**07. Definitions.** For the purposes of this Section only; (7-1-09)T

**a.** "Issuer of a Medicare supplement policy or certificate" includes third-party administrator, or other person acting for or on behalf of such issuer. (7-1-09)T

**b.** "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual. (7-1-09)T

**c.** “Genetic information” means, with respect to any individual, information about such individual’s genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term “genetic information” does not include information about the sex or age of any individual. (7-1-09)T

**d.** “Genetic services” means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education. (7-1-09)T

**e.** “Genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term “genetic test” does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved. (7-1-09)T

**f.** “Underwriting purposes” means: (7-1-09)T

**i.** Rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy; (7-1-09)T

**ii.** The computation of premium or contribution amounts under the policy; (7-1-09)T

**iii.** The application of any preexisting condition exclusion under the policy; and (7-1-09)T

**iv.** Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits. (7-1-09)T

**02640. -- 999. (RESERVED).**

## **IDAHO APPENDIX A**

### **SAMPLE CONSUMER QUESTIONNAIRE**

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application.

**PLEASE ANSWER ALL QUESTIONS.**

**To the best of your knowledge:**

- 1.** Did you turn 65 in the last six (6) months?
- 2.** Did you enroll in Medicare Part B in the last six (6) months?
  - a.** If so, what is the effective date?

**3.** Are you covered for medical assistance through the state Medicaid program? NOTE TO APPLICANT; If you are participating in a "Spend-Down Program and have not met your "Share of Cost," please answer NO to this question.

**4.** Will Medicaid pay your premiums for this Medicare supplement policy?

**5.** Do you receive any benefits from Medicaid OTHER THAN payments toward your Medicare Part B premium?

**6.** If you had coverage from any Medicare plan other than original Medicare within the past sixty-three (63) days (for example, a Medicare Advantage Plan, or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

**7.** If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

**8.** Was this your first time in this type of Medicare plan?

**9.** Did you drop a Medicare supplement policy to enroll in the Medicare plan?

**10.** Do you have another Medicare supplement policy in force?

**a.** If so, with what company and what plan do you have?

**b.** If so, so you intend to replace your current medicare supplement policy with this policy?

**11.** Have you had coverage under any other health insurance within the past sixty-three (63) days?

**a.** If so, with what company and what kind of policy?

**b.** What are your dates of coverage under the other policy?

## IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

### 26.01.34 - IDAHO PROTECTION AGAINST INVASIVE SPECIES STICKER RULES

#### DOCKET NO. 26-0134-0901 (FEE RULE, NEW CHAPTER)

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is May 8, 2009.

**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 67-7002, Idaho Code, and Section 67-7008A, 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 June 17, 2009.

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

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

These rules address the implementation of HB 213 requiring the creation, distribution, and sale of an Idaho Protection Against Invasive Species Sticker. The rules provide definitions, descriptions of the fees and handling of the revenue, guidance on proper application of the stickers, and the establishment of enforcement requirements relating to boating activities on state park properties.

The rule also clarifies that for the 2010 boating registration season the Registration Validation Sticker will also serve as the Protection Against Invasive Species Sticker that was created under HB 213 and enacted on April 8, 2009 for all motorized vessels that are required to be registered. However, for the 2009 boating season a separate Protection Against Invasive Species Sticker must be purchased as well as the Registration Validation Sticker.

**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:

This temporary rule is necessary to ensure IDPR compliance with the requirements of the Idaho Safe Boating Act as it relates to the passage of HB 213 by the 2009 Legislature, requiring the creation, distribution, and sale of an Idaho protection against invasive species sticker.

**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:

In accordance with the provisions of HB 213, IDPR is responsible for the creation, distribution, and sale of Idaho protection against invasive species stickers, and for the collection and distribution of those revenues to the Idaho State Department of Agriculture for the Idaho Invasive Species Fund.

**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 to comply with deadlines provided in HB 213.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed fee rule, contact Renee' Iverson, IDPR Registration Unit Supervisor, (208) 514-2458.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 24, 2009.

DATED this 27th day of April, 2009

Renee' L. Iverson  
Registration Unit Supervisor  
Idaho Department of Parks and Recreation  
5657 Warm Springs Ave  
PO Box 83720, Boise ID 83720-0065  
Phone (208) 514-2458 / Fax (208) 334-2639

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**THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT OF DOCKET NO. 26-0134-0901**

**IDAPA 26**  
**TITLE 01**  
**CHAPTER 34**

**26.01.34 - IDAHO PROTECTION AGAINST INVASIVE SPECIES STICKER RULES**

**000. LEGAL AUTHORITY.**

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code; and is authorized under Section 67-7008A, Idaho Code, to promulgate rules prescribing the display of protection against invasive species stickers. (5-8-09)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.34, "Idaho Protection Against Invasive Species Sticker Rules." (5-8-09)T

**02. Scope.** This chapter establishes rules to aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (5-8-09)T

**002. WRITTEN INTERPRETATIONS.**

This agency has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 150. (5-8-09)T

**003. APPEALS.**

Any person who may be adversely affected by a final decision, ruling, or direction of the director may appeal the decision, ruling, or direction as outlined under IDAPA 26.01.01.250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board." (5-8-09)T

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (5-8-09)T

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

The state office of the Department of Parks and Recreation is located at 5657 Warm Springs Avenue, Boise, Idaho 83706-0065, (208) 334-4199, www.parksandrecreation.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (5-8-09)T

**006. IDAHO PUBLIC RECORDS ACT.**

The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (5-8-09)T

**007. CITATION.**

The official citation of this chapter is IDAPA 26.01.34.000 et seq. For example, the citation for this section is IDAPA 26.01.34.007. (5-8-09)T

**008. -- 009. (RESERVED).**

**010. DEFINITIONS.**

As used in this chapter: (5-8-09)T

**01. Commercial Outfitters.** As defined in Section 36-2102(b), Idaho Code. (5-8-09)T

**02. Department.** The Idaho Department of Parks and Recreation. (5-8-09)T

**03. Fund.** Invasive Species Fund as defined in Section 22-1911, Idaho Code. (5-8-09)T

**04. Idaho Invasive Species Act.** The Idaho Invasive Species Act of 2008 as established in Title 22, Chapter 19, Idaho Code. (5-8-09)T

**05. Motorized Vessel.** Any watercraft requiring registration under Section 67-7008, Idaho Code, or any comparable U.S. vessel registration program. (5-8-09)T

**06. Non-Motorized Vessel.** Any watercraft used or capable of being used as a means of transportation on water that is propelled by human effort. For the purpose of this chapter this term does not include small inflatable rafts or other inflatable vessels less than ten (10) feet in length. (5-8-09)T

**07. Protection Against Invasive Species Sticker.** Any sticker issued by the Department in accordance with the provisions of Section 67-7008(A), Idaho Code. (5-8-09)T

**08. Registration Validation Sticker.** Any sticker issued by the Department in accordance with the provisions of 67-7008, Idaho Code. (5-8-09)T

**011. ABBREVIATIONS.**

There are no abbreviations defined in this chapter. (5-8-09)T

**012. -- 049. (RESERVED).**

**050. COLLECTION OF FEES AND DISTRIBUTION OF REVENUES INTO FUND.**

In addition to any other moneys or fees collected pursuant to Section 67-7008 or any other provision of Title 67, Chapter 70, Idaho Code, all vessels are required to pay an additional fee as established in Section 67-7008A, Idaho Code. (5-8-09)T

**01. Operator Responsibilities.** The operator of any watercraft required to display a Protection Against Invasive Species Sticker pursuant to this chapter will ensure that fees are paid and that a Protection Against Invasive Species Sticker is displayed on the vessel, except as provided in Subsection 075.01 of this chapter, prior to launch into the public waters of Idaho. (5-8-09)T

**02. Prorated Group Rates for Commercial Outfitters.** Group rates for commercial outfitters with nonmotorized fleets exceeding five (5) vessels will be determined using the number of vessels being stickered at the

time of purchase, as provided in Section 67-7008A(1)(c). Previous or future sticker purchases will be prorated separately. (5-8-09)T

**03. Transfer of Funds.** Fees collected will be transferred and deposited into the Fund no less than quarterly during any fiscal year. (5-8-09)T

**051. -- 074. (RESERVED).**

**075. PROTECTION AGAINST INVASIVE SPECIES STICKER.**

**01. Motorized Vessels.** Beginning with the 2010 boating registration season, upon payment of the fees required by Section 050 of these rules, the registration validation sticker as identified in IDAPA 26.01.30, "Idaho Safe Boating Rules," will also serve as the Protection Against Invasive Species Sticker for those vessels registered pursuant to Section 67-7008, Idaho Code. (5-8-09)T

**02. All Other Watercraft.** A separate Protection Against Invasive Species Sticker will be issued for all other watercraft upon payment of the fees required under Section 050 of these rules. (5-8-09)T

**076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.**

**01. Location.** (5-8-09)T

**a.** Motorized vessel. Except as provided in Subsection 075.01 of this chapter, the Protection Against Invasive Species Sticker should be affixed next to the current year Registration Validation Sticker on the port (left) side of the vessel. (5-8-09)T

**b.** Non-motorized. (5-8-09)T

**i.** For canoes, kayaks, and other small rigid vessels, the Protection Against Invasive Species Sticker should be affixed near the bow above the waterline on the port (left) side, or on top of the vessel if there is little or no waterline distinction. (5-8-09)T

**ii.** For inflatable (non-rigid) vessels, the Protection Against Invasive Species Sticker can be modified to allow attachment of a zip tie, plastic attachment, or other similar mechanism, or be laminated into a hang tag. (5-8-09)T

**02. Removal.** Protection Against Invasive Species Stickers issued in accordance with Section 67-7008A, Idaho Code, which have become invalid, shall be removed from the vessel. (5-8-09)T

**077. ENFORCEMENT.**

All operators of vessels as defined in this chapter must ensure their vessel is in compliance with the provisions of this chapter when launched upon the public waters of the state of Idaho. Non-compliance with the provisions of this chapter will result in possible assessment of penalties as described in Sec. 67-7033, Idaho Code, the Idaho Safe Boating Act. (5-8-09)T

**078. -- 999. (RESERVED).**



# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0901

### 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. This action is authorized by Sections 39-105, 39-107, and 39-116B, Idaho Code.

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

**TUESDAY - JULY 14, 2009 - 3:30 pm**

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
Conference Room B  
1410 N. Hilton, Boise, Idaho**

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

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to implement Idaho Code § 39-116B, which requires the Department of Environmental Quality (DEQ) to enter into rulemaking to establish the minimum requirements for a vehicle emissions testing program when ambient air quality concentrations are at or above 85% of a national ambient air quality standard and motor vehicle emissions constitute one of the two top contributing sources to the concentrations. These minimum requirements will assist affected local entities in determining whether to (1) enter into a joint exercise of powers agreement to implement the vehicle emissions testing program or (2) establish an alternative program in lieu of vehicle emissions testing. If local entities do not choose either one of the two options, DEQ must implement the vehicle emissions program.

Cities, counties, and all citizens in areas required to implement vehicle emissions testing may be interested in commenting on this proposed rule. After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2009 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the adjournment of the 2010 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. On January 7, 2009, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 09-1, page 450. On March 2, 2009, a preliminary draft negotiated rule was made available for public review. Meetings were held on February 3, 2009 and March 17, 2009. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government nor is it more stringent than federal regulations. The Clean Air Act requires, in marginal ozone nonattainment areas, a vehicle inspection and maintenance program. This proposed rule is broader in scope than the federal law as it applies to sources in an area not yet designated nonattainment. In addition, promulgation of this rule is required by Idaho Code 39-116B.

This proposed rule constitutes an important preemptive step for the Treasure Valley to take to attempt to avoid an ozone nonattainment designation. The ozone national ambient air quality standard is a standard designed to protect human health and the environment. It is clear under federal law that scientists have determined that a vehicle inspection and maintenance program is an important control measure to implement for ozone reduction.

**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 or 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 July 14, 2009.

DATED this 1st day of May, 2009.

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

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-0901**

**517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.**

**01. Purpose.** The purpose of Sections 517 through 526 is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352. ( )

**02. Applicability.** Sections 517 through 526 apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder. ( )

**03. Options.** ( )

**a.** Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may: ( )

**i.** Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or ( )

**ii.** Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program. ( )

**b.** If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program. ( )

**04. Governing Authority.** For the purpose of Sections 517 through 526, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 526 of these rules. ( )

- 05. Exemptions.** Sections 517 through 526 do not apply to the following: ( )
- a.** Electric or hybrid motor vehicles; ( )
  - b.** Motor vehicles with a model year less than five (5) years old; ( )
  - c.** Motor vehicles with a model year older than 1981; ( )
  - d.** Classic automobiles as defined by Section 49-406A, Idaho Code; ( )
  - e.** Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds; ( )
  - f.** Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code; ( )
  - g.** Motorized farm equipment; and ( )
  - h.** Registered motor vehicles engaged solely in the business of agriculture. ( )

**518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.**

- 01. General.** ( )
- a.** No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority. ( )
  - b.** No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station. ( )
- 02. Applications for License.** Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.04 or 518.05. ( )
- 03. Fees.** All applicants for an inspection station or retest station license shall submit, at the time of the original submission of the application, the license fee set by the governing authority. The fee payment shall be made payable to the governing authority. ( )
- 04. Requirements for Licensed Inspection Stations.** In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements: ( )
- a.** Must have a permanent location; ( )
  - b.** Must sign a contract pledging the station will not make any emissions related adjustments or repairs on the vehicles it emissions tests; ( )
  - c.** Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation; ( )
  - d.** Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority; ( )
  - e.** Must obtain and maintain in force appropriate business liability insurance; and ( )
  - f.** Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test. ( )

**05. Requirements for Licensed Retest Stations.** In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.04 with the exception of Subsection 518.04.b. ( )

**06. Approval Procedure.** ( )

**a.** Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review. ( )

**b.** Stations which meet the requirements of Subsections 518.01 through 518.05 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of the governing authority. ( )

**07. Revocation of Inspection Station or Retest Station License.** The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority. ( )

**519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.**

**01. Applications for License.** Application for a license as an emissions technician shall be filed with the governing authority. Applications for the emissions technician license shall be completed on forms provided by the governing authority. ( )

**02. Fees.** All applicants for an emissions technician license shall submit, at the time of the original submission of the application, the license fee set by the governing authority. The fee payment shall be made payable to the governing authority. ( )

**03. Requirements for Issuance of an Emissions Technician License.** An applicant must demonstrate the knowledge and skill necessary to perform an emissions test of motor vehicle engines. The governing authority shall require the minimum standards set forth in 40 CFR 51.367, incorporated by reference into these rules at Section 107. ( )

**04. Revocation of Emissions Technician License.** The governing authority has the authority to issue warnings and suspend or revoke an emissions technician license upon a showing that emission tests are not being performed in accordance with these rules or any other specifications or procedures enacted by the governing authority. ( )

**520. INSPECTION FREQUENCY.**

The inspections shall occur no more than once every two (2) years. If the owner of the motor vehicle obtains a waiver pursuant to Section 526, the motor vehicle must be inspected the following year. ( )

**521. TEST PROCEDURE REQUIREMENTS.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(a), incorporated by reference into these rules at Section 107. ( )

**522. TEST STANDARDS.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(b), incorporated by reference into these rules at Section 107. ( )

**523. TEST EQUIPMENT.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.358, incorporated by reference in to these rules at Section 107. ( )

**524. INSPECTION FEE.**

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 526 and to fund an air quality public awareness and outreach program. ( )

**525. PUBLIC OUTREACH.**

The governing authority shall issue a pamphlet for distribution to owners of motor vehicles. The pamphlet shall include, but not be limited to, the reasons for and the methods of the inspection. The governing authority may also establish and operate an informational hotline, website, or any other means of outreach that is deemed to be efficient and effective by the governing authority. ( )

**526. WAIVERS.**

The governing authority shall require the minimum standards set forth in 40 CFR 51.360(a), incorporated by reference into these rules at Section 107. If the owner of the motor vehicle obtains a waiver, the motor vehicle must be inspected the following year. ( )

**01. Financial Hardship.** If repairs required under Section 526 pose a financial hardship on the owner of the motor vehicle, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). Such determination of hardship shall be made on a case-by-case basis by the governing authority. ( )

**02. Public Service Vehicles Operating Less than 1,000 Miles Per Year.** For public service vehicles owned by a governmental entity and operated less than one thousand (1,000) miles per year, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). ( )

**527. -- 549. (RESERVED).**

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES**

**DOCKET NO. 58-0103-0801**

**NOTICE OF REJECTION OF RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the 2009 Idaho Legislature has taken action by concurrent resolution on this rulemaking docket.

**DESCRIPTIVE SUMMARY:** Pending Rule Docket No. 58-0103-0801 was submitted to the 2009 Idaho Legislature for review. Under Senate Concurrent Resolution 103, the Idaho Legislature rejected this rule docket in its entirety.

The proposed rule was published in Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 150 through 167. The pending rule was published in the Idaho Administrative Bulletin, December 3, 2008, Vol. 08-12, pages 108 through 110.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking action, contact the undersigned.

Dated this 1st day of May, 2009.

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

# **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

## **58.01.16 - WASTEWATER RULES**

**DOCKET NO. 58-0116-0802**

### **NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapters 1 and 36, Title 39, 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 June 17, 2009. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) has initiated this rulemaking to allow for the creation of a combined very small wastewater treatment and collection system classification for communities with 500 connections or less. Operators struggle with obtaining the various licenses currently required for the different aspects of very small facility operation. This difficulty in obtaining more than one license results in there being too few properly licensed operators. This lack of properly licensed operators places the facilities in danger of being out of compliance with the rules that require they use the services of properly licensed operators. Smaller systems, due to their relative simplicity of operation, are good candidates for operation by individuals with combined licenses. Associated with this rulemaking is the need for the Idaho Bureau of Occupational Licenses (IBOL) to establish a very small wastewater system operator license. DEQ is working with IBOL to coordinate rulemaking activities.

Cities, water and sewer districts, homeowner associations, private wastewater contractors, operators, the Association of Idaho Cities, the Idaho Rural Water Association, and the Pacific Northwest Clean Water Association - Idaho Sections (North Idaho, Southeast and Southwest Idaho Operator Sections) 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 October 2009 Board meeting for adoption as a pending rule. The pending rule is expected to be final and effective upon the adjournment of the 2010 legislative session if adopted by the Board and approved by the Legislature. This rule was adopted as a temporary rule by the Board in February 2009 and is currently effective.

**NEGOTIATED RULEMAKING:** The text of the rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. On December 3, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-12, pages 123 through 124, and a preliminary draft rule was made available for public review. One meeting was held on December 16, 2008. Members of the public participated in this negotiated rulemaking process by attending the meeting.

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule does regulate an activity not regulated by the federal government. There is no federal law or regulation comparable to the provisions governing wastewater treatment and collection system classification set forth in the Wastewater Rules; therefore, the changes to the rules are not broader in scope or more stringent than federal law or 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: not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Ester Ceja at [ester.ceja@deq.idaho.gov](mailto:ester.ceja@deq.idaho.gov), (208)373-0585. 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 July 1, 2009.

DATED this 1st day of May, 2009.

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

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0116-0802**

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply: (4-11-06)

**01. Available.** Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-11-06)

**02. Adequate Emergency Storage Capacity.** The emergency storage capacity of a lift station wet well is the volume of the wet well measured between the high water alarm and the gravity sewer invert into the wet well. The collection system shall not be used in the calculation for emergency storage. For the purpose of this definition, "adequate" shall be defined as twice the estimated emergency response time multiplied by the peak hour flow to the wet well. The high water alarm shall be placed at an elevation below the wet well invert sufficient to achieve the defined volumetric emergency storage capacity. (5-8-09)

**03. Average Day Flow.** The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. See also the definition of Wastewater Flows. (5-8-09)

**04. Beneficial Use.** Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (4-11-06)

**05. Biochemical Oxygen Demand (BOD).** The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (4-11-06)

**06. Blackwaste.** Human body waste, such as excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (5-8-09)

**07. Blackwater.** A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (5-8-09)

**08. Board.** The Idaho Board of Environmental Quality. (4-11-06)



**09. Capacity.** The capabilities required of a wastewater system in order to achieve and maintain compliance with these rules. It is divided into three (3) main elements: (5-8-09)

**a.** Technical capacity means the system has the physical infrastructure to safely collect wastewater and consistently meet discharge standards and treatment requirements, and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (5-8-09)

**b.** Financial capacity means the financial resources of the wastewater system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (5-8-09)

**c.** Managerial capacity means that the management structure of the wastewater system embodies the aspects of wastewater system operations, including, but not limited to; (5-8-09)

i. Short and long range planning; (5-8-09)

ii. Personnel management; (5-8-09)

iii. Fiduciary responsibility; (5-8-09)

iv. Emergency response; (5-8-09)

v. Customer responsiveness; and (5-8-09)

vi. Administrative functions such as billing and consumer awareness. (5-8-09)

**10. Class A Effluent.** Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. For comprehensive Class A Effluent criteria and permitting requirements refer to IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." (3-30-07)

**11. Class A Effluent Distribution System.** The delivery system for Class A effluent. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements in Section 203 of these rules. (4-11-06)

**12. Collection System.** That portion of the wastewater system or treatment facility in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. (3-30-07)

**13. Compliance Schedule or Compliance Agreement Schedule.** A schedule of remedial and preventative measures and sequence of actions leading to compliance with a regulation, statute or rule, enforceable as set forth in Sections 39-116 and 39-116A, Idaho Code, respectively. (5-8-09)

**14. Department.** The Idaho Department of Environmental Quality. (4-11-06)

**15. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (4-11-06)

**16. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. (4-11-06)

**17. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-11-06)

- 18. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (4-11-06)
- 19. Disinfection.** A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (4-11-06)
- 20. Disposal Facility.** Any facility used for disposal of any wastewater. Facilities for the disposal of sludge are regulated under Section 650 of these rules. (3-30-07)
- 21. Effluent.** Any treated wastewater discharged from a treatment facility. (5-8-09)
- 22. Environmental Review.** An environmental review document for a specific project includes a description of purpose and need for the project; a description of the affected environment and environmental impacts including, but not limited to, endangered species, historical and archaeological impacts, air impacts, surface and ground water impacts, and noise and visual impacts; a description of the planned mitigation for these impacts; and descriptions of the public process, agencies consulted, referenced documents, and a mailing list of interested parties. A checklist, which can be used as guidance, can be found at [http://www.deq.idaho.gov/water/permits\\_forms/forms/waste\\_water/form\\_j\\_eid\\_outline\\_checklist.doc](http://www.deq.idaho.gov/water/permits_forms/forms/waste_water/form_j_eid_outline_checklist.doc). This checklist is for Department grant and loan projects, but can be used in part or in whole as a guide. (5-8-09)
- 23. EPA.** The United States Environmental Protection Agency. (4-11-06)
- 24. Equivalent Dwelling Unit (EDU).** A measure where one (1) unit is equivalent to wastewater generated from one (1) single-family detached housing unit. For example, a business generating three (3) times as much wastewater as an average single-family detached housing unit would be considered three (3) equivalent dwelling units. (5-8-09)
- 25. Facility Plan.** The facility plan for a municipal wastewater treatment and disposal facility describes the overall system, including the collection system, the treatment systems, and the disposal systems. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the systems, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A Facility Plan is sometimes referred to as a master plan or facilities planning study. In general, a Facility Plan is an overall system-wide plan as opposed to a project specific plan. (5-8-09)
- 26. Facility and Design Standards.** Facility and design standards are described in Sections 400 through 599 of these rules. Facility and design standards found in Sections 400 through 599 of these rules must be followed in the planning, design, construction, and review of municipal wastewater facilities. (3-30-07)
- 27. Geometric Mean.** The geometric mean of “n” quantities is the “nth” root of the product of the quantities. (4-11-06)
- 28. Gray Water.** Domestic wastewater that does not contain wastewater from toilets, kitchen sinks, dishwashers, cloth washing machines, and water softeners. (5-8-09)
- 29. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-11-06)
- 30. Industrial Wastewater.** Any waste, together with such water as is present, that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater. (4-11-06)
- 31. Land Application.** A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (4-11-06)
- 32. License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the

provisions of Chapter 24, Title 54, Idaho Code. (4-11-06)

**33. Major Wastewater Collection System Project.** A wastewater collection system project that is not a simple wastewater main extension. (5-8-09)

**34. Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

**35. Material Modification.** Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. Any project that increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing wastewater system components, or affects the wastewater flow of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (5-8-09)

**36. Maximum Day Flow.** The design maximum day flow is the largest volume of flow to be received during a continuous twenty four (24) hour period expressed as a volume per unit time. See also Wastewater Flows. (5-8-09)

**37. Maximum Month Flow.** The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)

**38. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (4-11-06)

**39. Municipal Wastewater.** Unless otherwise specified, sewage and associated solids, whether treated or untreated, together with such water that is present. Also called domestic wastewater. Industrial wastewater may also be present, but is not considered part of the definition. (4-11-06)

**40. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (4-11-06)

**41. Natural Background Conditions.** No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (4-11-06)

**42. Non-Contact Cooling Water.** Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water is not considered wastewater. Non-contact cooling water can be land applied as recharge water as discussed in Section 600 based on a Department approval as described in Subsections 600.04 and 600.05. (3-30-07)

**43. Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (4-11-06)

**44. Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (4-11-06)

**45. Non-Potable Mains.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. Examples would include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and reclaimed wastewater mains. (3-30-07)

**46. Non-Potable Services.** The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers.

(4-11-06)

**47. Operating Personnel.** Any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. (4-11-06)

**48. Owner.** The person, company, corporation, district, association or other organizational entity that owns the public wastewater system, and who provides, or intends to provide, wastewater service to system users and is ultimately responsible for the public wastewater system operation. (3-30-07)

**49. Peak Instantaneous Flow.** The design peak instantaneous flow is the instantaneous maximum flow rate to be received. See also the definition of Wastewater Flows. (5-8-09)

**50. Peak Hour Flow.** The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)

**51. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (4-11-06)

**52. Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (4-11-06)

**53. Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (4-11-06)

**54. Potable Water.** A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (4-11-06)

**55. Potable Mains.** Pipelines that deliver potable water to multiple service connections. (3-30-07)

**56. Potable Service.** Pipelines that convey potable water from a connection to the potable water main across private property to individual consumers. (3-30-07)

**57. Preliminary Engineering Report.** The preliminary engineering report for the municipal wastewater treatment or disposal facility is the report that addresses specific portions of the systems as they are being contemplated for design. These reports address specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 411. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. (5-8-09)

**58. Primary Treatment.** Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (4-11-06)

**59. Private Municipal Wastewater Treatment Plant.** A wastewater facility that treats municipal wastewater and is under private ownership. These systems are typically initially owned, operated, and maintained by a developer with the ownership, operation and maintenance transferring to a homeowners association, or similar

entity as lots are sold within the development.

(5-8-09)

**60. Public Wastewater System or Wastewater System.** *For purposes of Sections 202 through 204, a* A public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, ~~or treats, or disposes of~~ two thousand five hundred (2,500) or more gallons of wastewater per day. This does not include: ~~any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any wastewater system with individual septic tanks and individual pump stations that discharge to a common gravity flow subsurface treatment and distribution system when ownership of each septic tank and pumping station is by individual property owner and ownership of the common system is by a public or private entity;~~ ( )

**a.** ~~Any~~ animal waste system used for agricultural purposes that have been constructed in part or whole by public funds; ~~or industrial wastewater systems under private ownership.~~ ( )

**b.** ~~This definition also does not include a~~Any industrial or other nonmunicipal wastewater system which is covered under Section 401 of these rules. (3-30-07)( )

**61. Qualified Licensed Professional Engineer (QLPE).** A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (5-8-09)

**62. Quasi-Municipal Corporation.** A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. (4-11-06)

**63. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (4-11-06)

**64. Recharge.** The process of adding water to the zone of saturation. (4-11-06)

**65. Recharge Water.** Water that is specifically utilized for the purpose of adding water to the zone of saturation. (4-11-06)

**66. Redundancy.** Redundancy for wastewater treatment and disposal facilities is generally focused on supplying or installing backup equipment and facilities to make the operation of the systems more reliable. These redundant systems are sometimes required to provide backup for emergencies, taking certain processes off-line, or for treating spikes in wastewater flow or strength. (3-30-07)

**67. Reliability.** Reliability for wastewater collection and treatment and disposal facilities is usually based on its ability to consistently handle the wastewater flows in the community and to meet the requirements of its permit. This reliability is in part based on the redundancy built into the wastewater infrastructure and proper maintenance of the system. (3-30-07)

**68. Reasonably Accessible.** The following criteria shall be used to determine whether a project proposing a new private municipal wastewater treatment plant, or a material modification or expansion of an existing private municipal wastewater treatment plant, is reasonably accessible to a public municipal wastewater collection system. (5-8-09)

**a.** For an existing private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system becomes located within a minimum of one thousand (1,000) feet of any portion of the discharge piping of a private municipal wastewater treatment plant, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. (5-8-09)

**b.** For a proposed project which includes a new private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system is located within a minimum of one

thousand (1,000) feet of any portion of the proposed development or existing development property boundary, and the owner of the public municipal wastewater collection system will provide a “will serve” letter. (5-8-09)

c. The Department may determine that a private municipal wastewater treatment plant may be reasonably accessible to the public municipal wastewater collection system at distances greater than those distances specified in Paragraphs a. or b. of this Subsection based on site-specific factors. (5-8-09)

**69. Responsible Charge (RC).** For purposes of Sections 202 through 204, responsible charge means, active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site or on-call direction of employees and assistants. (5-8-09)

**70. Responsible Charge Operator.** For purposes of Sections 202 through 204, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site or on-call presence at the specified facility. (5-8-09)

**71. Reuse.** The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, ground water recharge using surface spreading, seepage ponds, or other unlined surface water features. (3-30-07)

**72. Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.03.b. of these rules, the Qualified Licensed Professional Engineer (QLPE) is also the reviewing authority. (5-8-09)

**73. Sanitary Sewer Extension.** As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system. (4-11-06)

**74. Secondary Treatment.** Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (4-11-06)

**75. Septage.** Septage is a general term for the contents removed from septic tanks, portable vault toilets, privy vaults, wastewater holding tanks, very small wastewater treatment plants, or semi-public facilities (i.e., schools, motels, mobile home parks, campgrounds, small commercial endeavors) receiving wastewater from domestic sources. Non-domestic (industrial) wastes are not included in this definition. This does not include drinking water treatment residuals that may be held in a holding tank. (3-30-07)

**76. Septage Transfer Station.** A place where septage from more than one (1) hauler is accumulated for collection and subsequent removal without processing to a treatment facility. (5-8-09)

**77. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (4-11-06)

**78. Simple Wastewater Main Extension.** New or replacement wastewater main(s) that require plan and specification review per these rules and that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow. (5-8-09)

**79. Sludge.** The semi-liquid mass produced and removed by the wastewater treatment process. (3-30-07)

**80. Special Resource Water.** Those specific segments or bodies of water which are recognized as

- needing intensive protection: (4-11-06)
- a. To preserve outstanding or unique characteristics; or (4-11-06)
  - b. To maintain current beneficial use. (4-11-06)
- 81. State.** The state of Idaho. (4-11-06)
- 82. Substitute Responsible Charge Operator.** A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-11-06)
- 83. Surface Water Body.** All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. (4-11-06)
- 84. Total Maximum Daily Load (TMDL).** The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (3-30-07)
- 85. Treatment.** A process or activity conducted for the purpose of removing pollutants from wastewater. (4-11-06)
- 86. Treatment Facility.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, or wastewater treatment plant. (3-30-07)
- 87. User.** Any person served by a public wastewater system. (4-11-06)
- 88. Very Small Wastewater System.** A public wastewater system that serves five hundred (500) connections or less and includes a collection system with a system size of six (6) points or less on the system classification rating form (Section 202) and is limited to only one (1) of the following wastewater treatment processes: ( )
- a. Aerated lagoons: ( )
  - b. Non-aerated lagoon(s): ( )
  - c. Primary treatment; or ( )
  - d. Primary treatment discharging to a large soil absorption system (LSAS). ( )
- 889. Wastewater.** Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. (5-8-09)
- 890. Wastewater Flows.** The following flows for the design year shall be identified as required and used as a basis for design of sewer systems including sewer mains, lift stations, wastewater treatment plants,

treatment units, and other wastewater handling facilities. The definition contained in this Subsection applies where any of the terms defined in Paragraphs a. through e. are used in these rules. (5-8-09)

**a.** Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. (5-8-09)

**b.** Maximum Day Flow. The design maximum day flow is the largest volume of flow to be received during a continuous twenty-four (24) hour period expressed as a volume per unit time. (5-8-09)

**c.** Maximum Month Flow. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. (5-8-09)

**d.** Peak Instantaneous Flow. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. (5-8-09)

**e.** Peak Hour Flow. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. (5-8-09)

**901.** **Wastewater Lagoon.** Manmade impoundments for the purpose of storing or treating wastewater. (4-11-06)

**912.** **Wastewater Pipelines.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

**923.** **Wastewater Pumping Station.** A wastewater facility that collects wastewater from the collection system or the treatment system and pumps it to a higher elevation. Also called lift station or wastewater lift station. (3-30-07)

**934.** **Wastewater System Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment or collection system in order to safeguard the public health and environment. (4-11-06)

**945.** **Water Main Extension.** An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (4-11-06)

**956.** **Water Pollution.** Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (4-11-06)

**967.** **Waters and Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-11-06)

**978.** **Watershed.** The land area from which water flows into a stream or other body of water which drains the area. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**202. CLASSIFICATION OF PUBLIC WASTEWATER SYSTEMS.**

**01. Classification Requirement.** All public wastewater systems shall be classified based on indicators



of potential health risks. (4-11-06)

a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions or when directed by the Department to submit a revised classification rating form. ~~(4-11-06)~~( )

b. The Department shall review system classification rating forms ~~submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals~~ and issue the final system classification. ~~(4-11-06)~~( )

**02. Classification Criteria.** Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-11-06)

a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-11-06)

b. Complexity or size of collection systems. (4-11-06)

c. Other criteria deemed necessary to completely classify systems. (4-11-06)

### 203. PUBLIC WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.

**01. System Operator Licensure Requirement.** Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system or each very small wastewater system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of ~~the wastewater treatment system and collection system~~ each treatment system and each collection system or each very small wastewater system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection, with the exception of a very small wastewater system for which the responsible charge operator may hold a single very small wastewater system license. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ~~ten~~ thirty (30) days of such change. ~~(4-11-06)~~( )

**02. Responsible Charge Operator License Requirement.** An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system, ~~where present~~, and each collection system or each very small wastewater system, as determined by the Department. ~~(4-11-06)~~( )

**03. Substitute Responsible Charge Operator.** At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-11-06)

**04. Wastewater System Operator Licensure.** All other operating personnel at public wastewater systems, including each treatment system and each collection system or each very small wastewater system, must hold a valid license issued by the Idaho Bureau of Occupational Licenses. ~~(4-11-06)~~( )

**05. ~~Class A Reclaimed~~ Wastewater System Operator Licensure Exceptions.** ( )

a. Any public wastewater system operating personnel that exclusively operate a Class A Effluent Distribution System of a Class A Municipal Reclaimed Wastewater System permitted in accordance with IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater," ~~is~~ are not subject to operator ~~licensing~~ licensure requirements as outlined in these rules. ~~(3-30-07)~~( )

b. Any non-pressurized drainfield and associated septic tank and collection system operating

personnel are not subject to operator licensure requirements. ( )

**06. General Compliance Deadline.** All public wastewater systems addressed in Sections 202 and 203 shall be in compliance with these rules by April 15, 2006. (4-11-06)

**07. Land Application/Reuse Operator Compliance Deadline.** Each public wastewater land application/reuse system addressed in these rules shall employ, retain or contract with licensed land application/reuse operating personnel by April 15, 2007. (3-30-07)

~~**08. Qualifications for Operator Licensure.** All public wastewater system operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses. (4-11-06)~~

**204. CONTRACTING FOR SERVICES.**  
Public wastewater systems may contract with a properly licensed public wastewater system operator or with a public wastewater system having licensed operators to provide supervision operating personnel to provide responsible charge operators and substitute responsible charge operators. ~~The contracted public wastewater system operator or contracted entity shall employ and assign to that system an operator licensed at the grade equal to or greater than the classification of the system.~~ Proof of such contract shall be submitted to the Department prior to the contracted operating personnel performing any services at the public wastewater system. (4-11-06)( )

## HOUSE CONCURRENT RESOLUTION NO. 9

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature First Regular Session 2009

IN THE HOUSE OF REPRESENTATIVES  
HOUSE CONCURRENT RESOLUTION NO. 9  
BY EDUCATION COMMITTEE

### A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DIVISION OF VOCATIONAL REHABILITATION RELATING TO RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Division of Vocational Rehabilitation relating to Rules of the Idaho Division of Vocational Rehabilitation are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 47.01.01, rules governing Rules of the Idaho Division of Vocational Rehabilitation, Section 100, relating to Client/Participant Appeals, Subsections 01, 02 and 03, the stricken language only, and Section 301, relating to Transparency, Rules of the Division of Vocational Rehabilitation, adopted as pending rules under Docket Number 47-0101-0801, be, and the same are hereby rejected and declared null, void and of no force and effect.

#### Statement of Purpose / Fiscal Impact

#### STATEMENT OF PURPOSE RS18486C1

This concurrent resolution would reject a section and restore three subsections of a pending rule of the Division of Vocational Rehabilitation relating to Rules of the Idaho Division of Vocational Rehabilitation as being not consistent with Legislative intent. The effect of this resolution, if adopted by both houses, would be to prevent the amended language in the section from going into effect and the stricken language in the three subsections from being deleted from the Division's rule.

#### FISCAL NOTE

This concurrent resolution has no fiscal impact.

Adopted: February 17, 2009.

Contact:  
Name: Representative Bob Nonini  
Phone: (208) 332-1000

## HOUSE CONCURRENT RESOLUTION NO. 10

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature First Regular Session 2009

IN THE HOUSE OF REPRESENTATIVES  
HOUSE CONCURRENT RESOLUTION NO. 10  
BY STATE AFFAIRS COMMITTEE

### A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE LOTTERY COMMISSION RELATING TO RULES GOVERNING CHARITABLE GAMING

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Lottery Commission relating to Rules Governing Charitable Gaming are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 52.01.02, Gaming Rules of the Idaho State Lottery Commission, Section 303, relating to Limitation of Involvement by For-Profit Businesses, and Section 304, as it is proposed to be deleted, relating to Compensation of Certain Persons and Contracts with Certain Persons Prohibited, under Docket Number 52-0102-0801, be, and the same are hereby rejected and declared null, void and of no force and effect.

#### Statement of Purpose / Fiscal Impact

#### STATEMENT OF PURPOSE RS18504

This concurrent resolution rejects Lottery Commission Rule 303 which would prevent employees of a for profit corporation from assisting in the operation of charitable Bingo and reinstates rule 304 which defines the relationships that may exist between a for profit Corporation and charitable Bingo.

#### FISCAL NOTE

Rejection of rule 303 will prevent the loss of \$35,000 to \$40,000 contributed annually to non-profits and charities in Kootenai County, and throughout the rest of the State of Idaho.

Adopted: February 19, 2009.

Contact:  
Name: Representative Brent Crane  
Phone: (208) 332-1000

## HOUSE CONCURRENT RESOLUTION NO. 17

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature First Regular Session 2009

IN THE HOUSE OF REPRESENTATIVES  
HOUSE CONCURRENT RESOLUTION NO. 17  
BY TRANSPORTATION AND DEFENSE COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND  
REJECTING A CERTAIN RULEMAKING DOCKET OF THE TRANSPORTATION DEPARTMENT  
RELATING TO RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rulemaking docket of the Transportation Department relating to Rules Governing Registration and Permit Fee Administration is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 39.02.22, Rules Governing Registration and Permit Fee Administration, Rules of the Transportation Department, adopted as a pending rule under Docket Number 39-0222-0801, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

### Statement of Purpose / Fiscal Impact

#### STATEMENT OF PURPOSE RS18546

This concurrent resolution would reject a pending rule docket of the Transportation Department relating to Rules Governing Registration and Permit Fee Administration. The effect of this resolution, if adopted by both houses, would be to prevent the agency rule from going into effect.

#### FISCAL NOTE

This concurrent resolution has no fiscal impact.

Adopted: February 23, 2009.

Contact:  
Name: Representative JoAn E. Wood  
Phone: (208) 332-1000

## HOUSE CONCURRENT RESOLUTION NO. 29

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature, First Regular Session - 2009

IN THE HOUSE OF REPRESENTATIVES  
HOUSE CONCURRENT RESOLUTION NO. 29  
BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE  
AND REJECTING A CERTAIN RULE DOCKET OF THE INDUSTRIAL COMMISSION  
RELATING TO MISCELLANEOUS PROVISIONS

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Industrial Commission relating to Miscellaneous Provisions is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 17.02.08, rules governing Miscellaneous Provisions, rules of the Industrial Commission, adopted as a pending rule under Docket Number 17-0208-0802, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

### Statement of Purpose / Fiscal Impact:

#### STATEMENT OF PURPOSE RS18717

This concurrent resolution would reject a pending rule docket of the Industrial Commission relating to Miscellaneous Provisions. The effect of this resolution, if adopted by both houses, would be to prevent the agency rule changes contained in the docket from going into effect.

#### FISCAL NOTE

This concurrent resolution has no fiscal impact.

Adopted: March 30, 2009.

Contact:  
Name: Representative Robert E. Schaefer  
Phone: (208) 332-1000

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

**HISTORY NOTES INDEX OF ADMINISTRATIVE RULES REVIEWED AND APPROVED  
FOR FINAL ADOPTION DURING THE 2009 LEGISLATIVE SESSION**

The following table is a Sections-affected, History Notes Index for those chapters of rules that were reviewed by the 2009 First Regular Session of the Sixtieth Legislature of the state of Idaho. The table lists those Sections of individual rule chapters that were affected by rulemakings that were submitted for review and acted upon by the legislature. The table includes the docket number of affected chapters, the amended section numbers, the Bulletin publication volumes, and the final effective date of the rule.

Effective dates for the pending rules reviewed and adopted as final by the 2009 Idaho Legislature are as follows:

Pending Fee Rules adopted or rejected by SCR 107; Effective date: April 9, 2009 (4-9-09);

All other Pending Rules - Effective date: May 8, 2009 (5-8-09) - Legislature adjournment date (Sine die).

<b><i>History Notes - Legislative Session 2009</i></b>				
<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
<b><i>IDAPA 01 - Board of Accountancy</i></b>				
<b><i>01.01.01 - Idaho Accountancy Rules</i></b>				
<i>01-0101-0801</i>	<i>004, 006-010, 012, 016, 020, 101, 301-303, 402, 500-502, 510, 600, 602, 611, 612, 701, 703</i>	<i>08-6</i>	<i>08-11</i>	<i>(5-8-09)</i>
<b><i>IDAPA 02 - Department of Agriculture</i></b>				
<b><i>02.01.04 - Rules Governing the Idaho Preferred® Promotion Program</i></b>				
<i>02-0104-0801</i>	<i>200, 300</i>	<i>08-10</i>	<i>09-1</i>	<i>(5-8-09)</i>
<b><i>02.02.14 - Rules for Weights and Measures</i></b>				
<i>02-0214-0801</i>	<i>004, 350</i>	<i>08-7</i>	<i>08-10</i>	<i>(5-8-09)</i>
<i>02-0214-0802</i>	<i>016, 100</i>	<i>08-9</i>	<i>08-11</i>	<i>(4-9-09)</i>
<b><i>02.03.03 - Rules Governing Pesticide and Chemigation Use and Application</i></b>				
<i>02-0303-0801</i>	<i>007, 100, 850</i>	<i>08-8</i>	<i>09-1</i>	<i>(5-8-09)</i>
<b><i>02.04.03 - Rules Governing Animal Industry</i></b>				
<i>02-0403-0801</i>	<i>004, 101, 305, 334,</i>	<i>08-10</i>	<i>09-1</i>	<i>(5-8-09)</i>
<b><i>02.04.21 - Rules Governing the Importation of Animals</i></b>				
<i>02-0421-0801</i>	<i>201-203</i>	<i>08-10</i>	<i>09-1</i>	<i>(5-8-09)</i>
<i>02-0421-0802</i>	<i>004, 010, 011, 050, 301-303, 601, 660, 800</i>	<i>08-10</i>	<i>09-1</i>	<i>(5-8-09)</i>

<b><i>History Notes - Legislative Session 2009</i></b>				
<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
<b><i>02.04.27 - Rules Governing Deleterious Exotic Animals</i></b>				
02-0427-0801	004, 010, 011, 100-999	08-10	09-1	(5-8-09)
<b><i>02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law</i></b>				
02-0602-0801	004	08-8	09-1	(5-8-09)
<b><i>02.06.12 - Rules Pertaining to the Idaho Fertilizer Law</i></b>				
02-0612-0801	004	08-8	09-1	(5-8-09)
<b><i>02.06.18 - Rules Governing Mint Rootstock and Clone Production</i></b>				
02-0618-0801	200, 201, 300-350, 450	08-8	09-1	(4-9-09)
<b><i>02.06.31 - Noxious Weed Free Forage and Straw Certification Rules</i></b>				
02-0631-0801	010, 100-150, 250	08-8	09-1	(5-8-09)
<b><i>02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001</i></b>				
02-0641-0801	004	08-8	09-1	(5-8-09)
<b><i>IDAPA 03 - State Athletic Commission</i></b>				
<b><i>03.01.01 - Rules of the State Athletic Commission</i></b>				
03-0101-0801	010, 101, 103-149, 209-799, 909,	08-10	08-12	(5-8-09)
<b><i>IDAPA 06 - Rules of the Board of Correction</i></b>				
<b><i>06.01.01 - Rules of the Board of Correction</i></b>				
06-0101-0801	101, 109, 116, 134, 402	08-10		(10-31-08)
<b><i>IDAPA 07 - Division of Building Safety</i></b>				
<b><i>07.01.02 - Rules Governing Fees For Electrical Inspections</i></b>				
07-0102-0801	011	08-9	08-11	(4-9-09)
<b><i>07.01.03 - Rules of Electrical Licensing and Registration - General</i></b>				
07-0103-0801	015	08-8	08-11	(5-8-09)
<b><i>07.01.05 - Rules Governing Examinations Building Safety</i></b>				
07-0105-0801	011	08-7	08-9	(5-8-09)
<b><i>07.02.03 - Rules Governing Permit Fee Schedule</i></b>				
07-0203-0801	011	08-9	08-11	(4-9-09)



<b><i>History Notes - Legislative Session 2009</i></b>				
<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
07-0203-0802	011	08-10	08-12	(4-9-09)
<b><i>07.02.04 - Rules Governing Plumbing Safety Inspections</i></b>				
07-0204-0801	011	08-8	08-11	(5-8-09)
<b><i>07.02.05 - Rules Governing Plumbing Safety Licensing</i></b>				
07-0205-0801	013	08-10	08-12	(5-8-09)
<b><i>07.02.06 - Rules Concerning Uniform Plumbing Code</i></b>				
07-0206-0801	011	08-9	08-11	(5-8-09)
<b><i>07.03.01 - Rules of Building Safety</i></b>				
07-0301-0801	004	08-8	08-11	(5-8-09)
07-0301-0802	036	08-9	08-11	(4-9-09)
<b><i>07.03.03 - Rules for Modular Buildings</i></b>				
07-0303-0801	033	08-10	08-12	(5-8-09)
<b><i>07.04.02 - Safety Rules for Elevators, Escalators, and Moving Walks</i></b>				
07-0402-0801	004	08-9	08-11	(5-8-09)
07-0402-0802	011	08-9	08-11	(4-9-09)
<b><i>07.05.01 - Rules of the Public Contractors License Board</i></b>				
07-0501-0801	112, 201	08-7	08-9	(4-9-09)
07-0501-0802	110, 111, 199	08-10	08-12	(5-8-09)
<b><i>07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems</i></b>				
07-0701-0801	051	08-9	08-11	(4-9-09)
07-0701-0802	060	08-10	08-12	(5-8-09)
<b><i>IDAPA 08 - Department of Education - State Board of Education</i></b>				
<b><i>08.01.04 - Rules Governing Residency Classification</i></b>				
08-0104-0801	000, 001-100, 102, 104, 105	08-10	09-1	(5-8-09)

<b><i>History Notes - Legislative Session 2009</i></b>				
<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
<b><i>08.01.11 - Out-of-State Institutions, In-State Nonaccredited Institutions, and Correspondence or Private Courses</i></b>				
08-0111-0801	Chapter Repeal	08-6	09-1	(5-8-09)
<b><i>08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools</i></b>				
08-0111-0802	Chapter Rewrite	08-6	09-1	(4-9-09)
<b><i>08.02.02 - Rules Governing Uniformity</i></b>				
08-0202-0801	023, 024, 027	08-1	09-1	(5-8-09)
08-0202-0802	060	08-6	09-1	(5-8-09)
08-0202-0803	004, 150, 160, 170, 190	08-10	09-1	(5-8-09)
08-0202-0804	025	08-10	09-1	(4-9-09)
08-0202-0805	027	08-10	09-1	(5-8-09)
08-0202-0806	043	08-10	09-1	(5-8-09)
08-0202-0807	075	08-10	09-1	(4-9-09)
<b><i>08.02.03 - Rules Governing Thoroughness</i></b>				
08-0203-0802	004	08-6	09-1	(5-8-09)
08-0203-0803	009, 105, 111, 115, 116	08-10	09-1	(5-8-09)
08-0203-0804	111	08-10	09-1	(5-8-09)
08-0203-0805	105, 107	08-11	09-1	(5-8-09)
<b><i>IDAPA 09 - Department of Labor</i></b>				
<b><i>09.01.08 - Rules on Disclosure of Employment Security Information</i></b>				
09-0108-0801	000-023	08-8	08-11	(5-8-09)
<b><i>09.01.35 - Unemployment Insurance Tax Administration Rules</i></b>				
09-0135-0801	221	08-8	08-11	(5-8-09)
<b><i>IDAPA 10 - Board of Professional Engineers and Land Surveyors</i></b>				
<b><i>10.01.01 - Rules of Procedure</i></b>				
10-0101-0801	001, 010-019, 022	08-10	09-1	(5-8-09)

<b><i>History Notes - Legislative Session 2009</i></b>				
<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
<b><i>10.01.02 - Rules of Professional Responsibility</i></b>				
10-0102-0801	001, 004-011	08-10	09-1	(5-8-09)
<b><i>10.01.03 - Rules of Corner Perpetuation and Filing</i></b>				
10-0103-0801	000, 001, 005, 006, 009, 010, 012-014	08-10	09-1	(5-8-09)
<b><i>10.01.04 - Rules of Continuing Professional Development</i></b>				
10-0104-0801	001, 004-009	08-10	09-1	(5-8-09)
<b><i>IDAPA 11 - Racing Commission</i></b>				
<b><i>11.04.02 - Rules Governing Simulcasting</i></b>				
11-0402-0801	Chapter Repeal	08-10	09-1	(4-9-09)
11-0402-0802	Chapter Rewrite	08-10	09-1	(4-9-09)
<b><i>11.04.03 - Rules Governing Licensing and Fees</i></b>				
11-0403-0801	New Chapter	08-1	08-12	(4-9-09)
<b><i>11.04.13 - Rules Governing the State Racing Commission</i></b>				
11-0413-0801	New Chapter	08-10	09-1	(5-8-09)
<b><i>IDAPA 11 - Idaho State Police</i></b>				
<b><i>11.07.01 - Rules Governing Motor Vehicles - General Rules</i></b>				
11-0701-0801	002	08-9	08-11	(5-8-09)
<b><i>11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council</i></b>				
11-1101-0801	210, 213, 257-266	08-10	08-12	(5-8-09)
<b><i>11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers</i></b>				
11-1104-0801	039	08-9	08-11	(5-8-09)
<b><i>11.11.05 - Rules of the Idaho Peace Officer Standards and Training Council for Idaho Department of Juvenile Corrections Direct Care Staff</i></b>				
11-1105-0801	New Chapter	08-6	08-8	(5-8-09)
<b><i>IDAPA 12 - Department of Finance</i></b>				
<b><i>12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act</i></b>				

<b><i>History Notes - Legislative Session 2009</i></b>				
<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
12-0110-0701	006, 010, 012, 100, 101	08-7	09-1	(5-8-09)
<b><i>IDAPA 13 - Department of Fish and Game</i></b>				
<b><i>13.01.04 - Rules Governing Licensing</i></b>				
13-0104-0801	010-100, 302-05	08-10	09-1	(5-8-09)
13-0104-0802	304	08-10	09-1	(5-8-09)
<b><i>13.01.07 - Rules Governing the Taking of Upland Game Animals</i></b>				
13-0107-0801	101	08-10	09-1	(5-8-09)
<b><i>13.01.08 - Rules Governing the Taking of Big Game Animals</i></b>				
13-0108-0802	260, 270-300, 350, 410	08-10	09-1	(5-8-09)
13-0108-0803	410	08-10	09-1	(5-8-09)
<b><i>13.01.09 - Rules Governing the Taking of Game Birds</i></b>				
13-0109-0801	100, 300, 500-600, 604, 615, 800	08-10	09-1	(5-8-09)
<b><i>13.01.11 - Rules Governing Fish</i></b>				
13-0111-0801	199, 299	08-10	09-1	(5-8-09)
13-0111-0802	201, 202	08-10	09-1	(5-8-09)
<b><i>13.01.16 - The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals</i></b>				
13-0116-0801	600	08-10	09-1	(5-8-09)
<b><i>13.01.17 - Rules Governing The Use of Bait for Taking Big Game Animals</i></b>				
13-0117-0801	100	08-10	09-1	(5-8-09)
<b><i>13.01.19 - Rules for Operating, Discontinuing, and Suspending Vendors</i></b>				
13-0119-0801	100-111, 114, 120, 122, 130, 153, 156, 159-161	08-10	09-1	(5-8-09)
<b><i>13.01.20 - Selection Rules of New Fish and Game License Vendors</i></b>				
13-0120-0801	101-103	08-10	09-1	(5-8-09)
<b><i>IDAPA 14 - Board of Registration of Professional Geologists</i></b>				
<b><i>14.01.01 - Rules of Procedure of the Board of Registration of Professional Geologists</i></b>				
14-0101-0801	100-200	08-10	08-12	(4-9-09)

<b>History Notes - Legislative Session 2009</b>				
<b>Chapter and Docket Number</b>	<b>Amended Sections</b>	<b>Bulletin Vol. Proposed Rule</b>	<b>Bulletin Vol. Pending Rule</b>	<b>Final Effective Date</b>
<b>IDAPA 15 - Idaho Commission for the Blind and Visually Impaired</b>				
<b>15.02.02 - Vocational Rehabilitation Services</b>				
15-0202-0801	300	08-10	08-12	(5-8-09)
<b>IDAPA 15 - Division of Human Resources and Personnel Commission</b>				
<b>15.04.01 - Rules of the Division of Human Resources and Idaho Personnel Commission</b>				
15-0401-0801	004, 010-015, 020, 026, 050, 061, 064, 070-073, 075-080, 082-084, 086, 092, 093, 100-104, 111, 119, 120, 122, 124-129, 140-142, 145, 147-150, 152, 159-179, 190-201, 203-241, 243, 250-269, 272, 273	08-10	09-1	(5-8-09)
<b>IDAPA 16 - Department of Health and Welfare</b>				
<b>16.02.02 - Rules of the Idaho Emergency Medical Services (EMS) Physician Commission</b>				
16-0202-0801	004	08-7	08-11	(5-8-09)
<b>16.02.08 - Vital Statistics Rules</b>				
16-0208-0801	850	08-5	09-1	(5-8-09)
<b>16.02.24 - Clandestine Drug Laboratory Cleanup</b>				
16-0224-0801	010, 110, 300, 400-500	08-10	09-1	(5-8-09)
<b>16.02.26 - Rules Governing the Idaho Children's Special Health Program</b>				
16-0226-0801	000, 001, 003-050, 052, 053, 104, 107, 109-149, 151, 153, 154, 157, 200, 251, 258-350, 997	08-10	09-1	(4-9-09)
<b>16.03.01 - Eligibility for Health Care Assistance for Families and Children</b>				
16-0301-0801	220, 251, 421-424, 525	08-8	08-11	(5-8-09)
16-0301-0802	353	08-10	09-1	(5-8-09)
<b>16.03.03 - Rules Governing Child Support Services</b>				
16-0303-0801	006, 304	08-6	08-9	(4-9-09)
16-0303-0802	000-007, 601	08-10	09-1	(5-8-09)
<b>16.03.04 - Rules Governing the Food Stamp Program in Idaho</b>				
16-0304-0801	426-499	08-6	08-9	(5-8-09)
16-0304-0802	204	08-8	08-11	(5-8-09)

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<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
<b>16.03.05 - Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)</b>				
16-0305-0801	106	08-8	08-11	(5-8-09)
16-0305-0802	359	08-10	09-1	(5-8-09)
<b>16.03.06 - Rules Governing Refugee Medical Assistance</b>				
16-0306-0801	100	08-8	08-11	(5-8-09)
<b>16.03.08 - Rules Governing Temporary Assistance for Families in Idaho</b>				
16-0308-0801	229-231	08-6	08-9	(5-8-09)
16-0308-0802	131	08-8	08-11	(5-8-09)
16-0308-0803	010, 113, 125, 126, 133, 141, 208, 215, 239, 248, 255-299	08-10	09-1	(5-8-09)
<b>16.03.09 - Medicaid Basic Plan Benefits</b>				
16-0309-0707	004, 399, 800-819, Appendix A	07-11	08-7	(5-8-09)
16-0309-0708	500-502	07-12	08-4	(5-8-09)
16-0309-0709	710	07-12	08-4	(5-8-09)
16-0309-0801	009, 399, 690-697	08-10	09-1	(5-8-09)
16-0309-0802	712	08-10	09-1	(5-8-09)
16-0309-0803	010, 707-711, 713-716, 735	08-10	09-1	(5-8-09)
<b>16.03.10 - Medicaid Enhanced Plan Benefits</b>				
16-0310-0705	001, 004, 075, 080-089, 624	07-11	08-7	(5-8-09)
16-0310-0706	010, 011, 013, 306, 321, 329	07-11	08-5	(5-8-09)
16-0310-0707	123, 124, 128	07-12	08-4	(5-8-09)
16-0310-0801	721, 723-736	08-10	09-1	(5-8-09)
16-0310-0802	257, 258, 261, 263, 271	08-10	09-1	(5-8-09)
16-0310-0803	010, 110-119, 123-125, 128-146	08-10	09-1	(5-8-09)
<b>16.03.14 - Rules and Minimum Standards for Hospitals In Idaho</b>				

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<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
16-0314-0801	371-379	08-1	08-7	(5-8-09)
<b>16.03.20 - Rules Governing Electronic Payments of Public Assistance, Food Stamps, and Child Support</b>				
16-0320-0801	Name Change, 000-053, 130, 132-320	08-10	09-1	(5-8-09)
<b>16.04.03 - Fees For Community Mental Health Services</b>				
16-0403-0801	08-1	08-8	08-8	(5-8-09)
<b>16.04.16 - Rules Governing the Department of Energy Administration Weatherization Program</b>				
16-0416-0801	Chapter Repeal	08-10	09-1	(5-8-09)
16-0416-0802	Chapter Rewrite	08-10	09-1	(5-8-09)
<b>16.05.03 - Rules Governing Contested Case Proceedings and Declaratory Rulings</b>				
16-0503-0801	000, 001, 010, 101, 108, 1320, 132, 151, 200-300, 401-503	08-8	09-1	(5-8-09)
<b>16.05.06 - Criminal History and Background Checks</b>				
16-0506-0801	050, 210	08-7	08-11	(4-9-09)
<b>16.06.01 - Rules Governing Family and Children's Services</b>				
16-0601-0801	Name Change, 000, 001, 010-422, 426	08-10	09-1	(5-8-09)
<b>16.06.02 - Rules Governing Standards for Child Care Licensing</b>				
16-0602-0801	000, 001, 003-005, 007, 010, 011, 100-102, 105, 114, 501-582, 601-634, 705-734, 735-748, 750-768, 780-788, 801-850	08-9	09-1	(7-1-09)
16-0602-0802	300	08-10	09-1	(4-9-09)
<b>16.06.12 - Rules Governing the Idaho Child Care Program (ICCP)</b>				
16-0612-0801	200, 301, 303-399	08-6	08-9	(5-8-09)
16-0612-0802	009, 805 Subsection Rejected by SCR 107: Subsection 009.03	08-10	09-1	(4-9-09)
16-0612-0803	007-011, 105, 501, 502, 600, 701-706, 750-754, 802, 809-811	08-10	09-1	(7-1-09)
<b>16.06.13 - Rules Governing Emergency Assistance for Families and Children</b>				
16-0613-0801	010-100, 300	08-8	08-11	(5-8-09)

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<b>16.06.14 - Rules Governing the Prevention of Minors' Access to Tobacco Products</b>				
16-0614-0801	Chapter Repeal	08-9	09-1	(5-8-09)
<b>16.07.01 - Behavioral Health Sliding Fee Schedules</b>				
16-0701-0801	New Chapter	08-1	09-1	(4-9-09)
<b>16.07.10 - Behavioral Health Development Grants</b>				
16-0710-0801	New Chapter	08-1	08--8	(5-8-09)
<b>16.07.17 - Alcohol and Substance Use Disorders Services</b>				
16-0717-0801	New Chapter	08-1	09-1	(5-8-09)
<b>16.07.25 - Prevention of Minors' Access to Tobacco Products</b>				
16-0725-0801	New Chapter	08-9	09-1	(5-8-09)
<b>16.07.33 - Adult Mental Health Services</b>				
16-0733-0801	New Chapter	08-1	08-10	(5-8-09)
<b>16.07.37 - Children's Mental Health Services</b>				
16-0737-0801	New Chapter	08-10	09-1	(5-8-09)
<b>IDAPA 17 - Industrial Commission</b>				
<b>17.02.04 - Rules Governing Emergency Medical Services Account III Grants</b>				
17-0204-0801	004	08-7	09-1	(5-8-09)
<b>IDAPA 18 - Department of Insurance</b>				
<b>18.01.09 - Consumer Protection in Annuity Transactions</b>				
18-0109-0801	000-021	08-8	08-11	(5-8-09)
<b>18.01.29 - Restrictions on Discretionary Clauses and Maximum Benefit Limits in Health</b>				
18-0129-0801	New Chapter	08-7	08-12	(5-8-09)
<b>18.01.39 - Rebates and Illegal Inducements in Title Insurance Business</b>				
18-0139-0801	Chapter Repeal	08-10	08-12	(5-8-09)
18-0139-0802	Chapter Rewrite	08-10	08-12	(5-8-09)
<b>18.01.43 - Certification of Fire Code Officials</b>				



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18-0143-0801	Name Change, 000-013, Appendix	08-10	08-12	(5-8-09)
<b>18.01.44 - Schedule of Fees, Licenses and Miscellaneous Charges</b>				
18-0144-0801	020, 040	08-10	08-12	(4-9-09)
<b>18.01.61 - Credit Life and Credit Disability Insurance</b>				
18-0161-0801	002-010, 021, 022, 026	08-10	08-12	(5-8-09)
<b>18.01.62 - Annual Audited Financial Reports</b>				
18-0162-0801	000-026	08-8	08-10	(5-8-09)
<b>18.01.73 - Rule to Implement the Individual Health Insurance Availability Act Plan Design</b>				
18-0173-0801	001, 003-022, 026	08-10	08-12	(5-8-09)
<b>18.01.77 - Actuarial Opinion and Memorandum Rule</b>				
18-0177-0801	024	08-7	08-10	(5-8-09)
<b>18.01.80 - Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities</b>				
18-0180-0801	New Chapter	08-9	08-11	(5-8-09)
<b>IDAPA 20 - Department of Lands</b>				
<b>20.02.01 - Rules Pertaining to the Idaho Forest Practices Act</b>				
20-0201-0801	020	08-9	09-1	(5-8-09)
<b>20.02.09 - Method of Selling Pole-Quality Western Red Cedar</b>				
20-0209-0801	Chapter Repeal	08-9	09-1	(5-8-09)
<b>20.02.10 - Rules for Selling of Forest Products on State-Owned Endowment Lands</b>				
20-0210-0801	Chapter Repeal	08-9	09-1	(5-8-09)
<b>20.02.14 - Rules for Selling Forest Products on State Owned Endowment Lands</b>				
20-0214-0801	New Chapter	08-9	09-1	(5-8-09)
<b>20.06.02 - General Rules, Licensing, and Check Scales of the Idaho Board of Scaling</b>				
20-0602-0801	001, 004-010, 100, 300, 500-504, 800	08-9	09-1	(5-8-09)
<b>20.06.03 - Measurement Rules for Forest Products of the Idaho Board of Scaling Practices</b>				
20-0603-0801	Chapter Repeal	08-9	09-1	(5-8-09)

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<b>IDAPA 21 - Division of Veterans Services</b>				
<b>21.01.01 - Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure</b>				
21-0101-0801	202, 350-352, 916, 980-985	08-10	08-12	(5-8-09)
<b>21.01.04 - Rules Governing the Idaho State Veterans Cemetery</b>				
21-0104-0801	024	08-7	08-9	(4-9-09)
21-0104-0802	030	08-9	08-11	(5-8-09)
<b>21.01.05 - Rules Governing Medical Transportation Payment for Wheelchair Confined Veterans</b>				
21-0105-0801	014	08-8	08-11	(5-8-09)
<b>IDAPA 22 - Board of Medicine</b>				
<b>22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho</b>				
22-0101-0801	011, 050, 051, 053, 081	08-9	08-12	(5-8-09)
<b>22.01.03 - Rules for the Licensure of Physician Assistants</b>				
22-0103-0801	008-010, 020, 021, 028-030, 036, 037, 041-043, 051	08-9	08-12	(4-9-09)
<b>IDAPA 23 - Board of Nursing</b>				
<b>23.01.01 - Rules of the Idaho Board of Nursing</b>				
23-0101-0801	240	08-9	08-11	(5-8-09)
<b>IDAPA 24 - Bureau of Occupational Licenses</b>				
<b>24.02.01 - Rules of the Board of Barber Examiners</b>				
24-0201-0801	010, 100, 150, 250, 400, 500, 502	08-7	08-12	(5-8-09)
<b>24.04.01 - Rules of the Idaho Board of Cosmetology</b>				
24-0401-0801	150, 200, 450, 500, 600	08-10	08-12	(5-8-09)
24-0401-0802	125, 300, 700	08-10	08-12	(4-9-09)
<b>24.05.01 - Rules of the Board of Drinking Water and Wastewater Professionals</b>				
24-0501-0801	150, 300,	08-9	09-1	(5-8-09)
<b>24.08.01 - Rules of the State Board of Morticians</b>				

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24-0801-0801	300	08-10	08-12	(5-8-09)
24-0801-0802	500	08-10	08-12	(4-9-09)
<b>24.11.01 - Rules of the State Board of Podiatry</b>				
24-1101-0801	300	08-9	08-12	(4-9-09)
<b>24.12.01 - Rules of the Idaho State Board of Psychologist Examiners</b>				
24-1201-0801	100-126, 200, 260, 350, 401, 450, 600-625	08-10	08-12	(5-8-09)
<b>24.13.01 - Rules of the Physical Therapy Licensure Board</b>				
24-1301-0801	200	08-9	08-12	(4-9-09)
<b>24.14.01 - Rules of the State Board of Social Work Examiners</b>				
24-1401-0801	203-249, 300	08-10	08-12	(4-9-09)
<b>24.15.01 - Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists</b>				
24-1501-0801	203	08-8	08-12	(4-9-09)
<b>24.16.01 - Rules of the State Board of Dentistry</b>				
24-1601-0801	250	08-9	08-12	(4-9-09)
<b>24.18.01 - Rules of the Real Estate Appraiser Board</b>				
24-1801-0801	004, 401	08-5	08-12	(5-8-09)
<b>24.19.01 - Rules of the Board of Examiners of Residential Care Facility Administrators</b>				
24-1901-0801	300, 400	08-8	08-12	(5-8-09)
<b>24.21.01 - Rules of the Idaho State Contractors Board</b>				
24-2101-0801	150	08-10	08-12	(5-8-09)
<b>IDAPA 25 - Outfitters and Guides Licensing Board</b>				
<b>25.01.01 - Rules of the Outfitters and Guides Licensing Board</b>				
25-0101-0802	34-36, 037, 038, 040-043, 048, 065	08-11	09-1	(5-8-09)
<b>IDAPA 26 - Department of Parks and Recreation</b>				
<b>26.01.20 - Rules Governing the Administration of Park and Recreation Areas and Facilities</b>				
26-0120-0801	250	08-10	09-1	(4-9-09)

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<b>Chapter and Docket Number</b>	<b>Amended Sections</b>	<b>Bulletin Vol. Proposed Rule</b>	<b>Bulletin Vol. Pending Rule</b>	<b>Final Effective Date</b>
<b>IDAPA 27 - Board of Pharmacy</b>				
<b>27.01.01 - Rules of the Idaho Board of Pharmacy</b>				
27-0101-0801	134, 156, 323, 356, 404, 405, 469	08-9	08-12	(5-8-09)
27-0101-0802	165	08-9	08-12	(5-8-09)
27-0101-0803	251	08-9	09-1	(5-8-09)
27-0101-0804	458	08-9	08-12	(5-8-09)
27-0101-0805	010, 100-113, 152, 160, 187, 496	08-10	09-1	(5-8-09)
27-0101-0806	460	08-10	08-12	(5-8-09)
27-0101-0807	010, 265, 267-290	08-10	08-12	(5-8-09)
27-0101-0808	253, 253, 255-257	08-10	08-12	(5-8-09)
27-0101-0809	404	08-10	08-12	(4-9-09)
27-0101-0810	156	08-10	08-12	(5-8-09)
27-0101-0811	251	08-10	09-1	(5-8-09)
<b>IDAPA 29 - Idaho Potato Commission</b>				
<b>29.01.02 - Rules Governing Payment of Tax and Usage of Federally Registered Trademarks</b>				
29-0102-0801	100	08-6	08-12	(4-9-09)
<b>IDAPA 30 - Commission for Libraries</b>				
<b>30.01.01 - Rules of the Idaho Commission for Libraries Governing the Use of Commission</b>				
30-0101-0801	040	08-8	08-11	(5-8-09)
<b>IDAPA 31 - Public Utilities Commission</b>				
<b>31.01.01 - Rules of Procedure of the Idaho Public Utilities Commission</b>				
31-0101-0801	012, 014, 054, 061-063, 067, 114, 122, 125-128, 132-135, 202, 204, 225, 229, 231, 233, 241, 244, 260, 267, 272	08-10	08-12	(5-8-09)
<b>31.71.03 - Railroad Safety and Accident Reporting Rules</b>				
31-7103-0801	103	08-9	08-11	(5-8-09)

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<b>IDAPA 33 - Real Estate Commission</b>				
<b>33.01.01 - Rules of the Idaho Real Estate Commission</b>				
33-0101-0801	402	08-9	08-12	(5-8-09)
<b>IDAPA 35 - State Tax Commission</b>				
<b>35.01.01 - Income Tax Rules</b>				
35-0101-0801	075, 108, 120-125, 128, 130, 171-173, 193, 194, 200, 254, 266, 273, 290, 550, 700, 701, 710, 770, 771, 785, 799, 800, 830, 855, 872, 874, 920-926, 930-936, 941	08-10	09-1	(5-8-09)
<b>35.01.02 - Sales Tax Administrative Rules</b>				
35-0102-0801	014, 024, 044, 067, 079, 100, 101, 105, 107, 130	08-10	09-1	(5-8-09)
<b>35.01.03 - Property Tax Administrative Rules</b>				
35-0103-0801	205-216	08-7	09-1	(5-8-09)
35-0103-0802	317, 509	08-10	09-1	(5-8-09)
35-0103-0804	006, 114, 125, 126, 128, 218, 219, 225, 302, 313, 314, 508, 626, 631, 802-804, 806, 902, 966	08-10	09-1	(5-8-09)
<b>35.01.05 - Motor Fuels Tax Administrative Rules</b>				
35-0105-0801	130, 135, 185,	08-10	09-1	(5-8-09)
<b>35.01.10 - Idaho Cigarette And Tobacco Tax Administrative Rules</b>				
35-0110-0801	022	08-10	09-1	(5-8-09)
<b>35.01.11 - Idaho Unclaimed Property Administrative Rules</b>				
35-0111-0801	015, 017	08-10	09-1	(5-8-09)
<b>35.02.01 - Tax Commission Administration and Enforcement Rules</b>				
35-0201-0801	200, 310	08-10	09-1	(5-8-09)
<b>IDAPA 37 - Department of Water Resources</b>				
<b>37.03.01 - Adjudication Rules</b>				
37-0301-0801	000-065	08-10	08-12	(5-8-09)
<b>37.03.09 - Well Construction Standards Rules</b>				
37-0309-0601	000-050, Appendix A	08-9	08-11	(5-8-09)

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<b>IDAPA 39 - Idaho Transportation Department</b>				
<b>39.02.07 - Rules Governing Titling of Salvage, Specially Constructed, Replica and Rebuilt Salvage Motor Vehicles</b>				
39-0207-0801	Name Change, 000, 005, 010-400	08-8	09-1	(5-8-09)
<b>39.02.60 - Rules Governing License Plate Provisions</b>				
39-0260-0801	012, 101, 202	08-8	09-1	(5-8-09)
<b>39.03.06 - Rules Governing Allowable Vehicle Size</b>				
39-0306-0801	300	08-9	09-1	(5-8-09)
<b>39.03.17 - Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers</b>				
39-0317-0801	400	08-10	09-1	(5-8-09)
<b>39.03.22 - Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations</b>				
39-0322-0801	200	08-10	09-1	(5-8-09)
<b>39.03.45 - Rules Governing Sale of No Longer Useful or Usable Real Property</b>				
39-0345-0801	010, 301, 304	08-9	09-1	(5-8-09)
<b>39.04.04 - Rules Governing Idaho Airport Aid Program</b>				
39-0404-0801	001-301	08-10	09-1	(5-8-09)
<b>IDAPA 40 - Idaho Commission of the Arts</b>				
<b>40.01.01 - Rules of the Idaho Commission on The Arts</b>				
40-0101-0801	100, 201-203, 206, 301-404, 500-505	08-10	08-12	(5-8-09)
<b>IDAPA 41 - Public Health District #1</b>				
<b>41.01.01 - Rules of Public Health District 1</b>				
41-0101-0801	100	08-10	08-12	(7-1-09)
<b>IDAPA 46 - Board of Veterinary Medical Examiners</b>				
<b>46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine</b>				
46-0101-0801	154, 202, 205	08-10	08-12	(5-8-09)
<b>IDAPA 47 - Division of Vocational Rehabilitation</b>				
<b>47.01.01 - Rules of the Idaho Division of Vocational Rehabilitation</b>				

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<b>Chapter and Docket Number</b>	<b>Amended Sections</b>	<b>Bulletin Vol. Proposed Rule</b>	<b>Bulletin Vol. Pending Rule</b>	<b>Final Effective Date</b>
47-0101-0801	002-100, 301- Sections Rejected by HCR 9: Section 100 and Section 301	08-10	09-1	(2-19-09)
<b>IDAPA 49 - Board of Certified Shorthand Reporters</b>				
<b>49.01.01 - Rules Of Procedure of the Idaho Certified Shorthand Reporters Board</b>				
49-0101-0701	005	08-10	08-12	(5-8-09)
49-0101-0801	008, 100-500 - Subsection Rejected by SCR 107: Subsection 500.01	08-10	08-12	(4-9-09)
<b>IDAPA 52 - Idaho State Lottery Commission</b>				
<b>52.01.02 - Gaming Rules of the Idaho State Lottery Commission</b>				
52-0102-0801	004, 010, 116, 117, 122, 202-206, 302-305, 411 Sections Rejected by HCR 10: Section 303 and Section 304	08-9	08-11	(2-19-09)
<b>52.01.03 - Rules Governing Operations of the Idaho State Lottery</b>				
52-0103-0801	100, 202, 204, 205	08-9	08-11	(5-8-09)
<b>IDAPA 58 - Department of Environmental Quality</b>				
<b>58.01.01 - Rules for the Control of Air Pollution in Idaho</b>				
58-0101-0703	725-749, 798	08-5	08-12	(5-8-09)
58-0101-0801	600-606, 617-625	08-4	08-12	(5-8-09)
58-0101-0802	008, 107	08-8	08-12	(5-8-09)
58-0101-0803	764	08-9	09-1	(5-8-09)
<b>58.01.05 - Rules and Standards for Hazardous Waste</b>				
58-0105-0801	002, 004-013, 015-018	08-8	08-12	(5-8-09)
<b>58.01.08 - Idaho Rules for Public Drinking Water Systems</b>				
58-0108-0801	003, 007, 010, 013, 100, 300, 450, 500-514, 518, 520, 522, 523, 530, 531, 533-535, 537-544, 546, 552, 554, 900	08-8	08-12	(5-8-09)
58-0108-0802	002, 100-151, 302-309, 323-349	08-8	08-12	(5-8-09)
58-0108-0803	151, 350	08-9	09-1	(5-8-09)
<b>58.01.11 - Ground Water Quality Rule</b>				

<b><i>History Notes - Legislative Session 2009</i></b>				
<b><i>Chapter and Docket Number</i></b>	<b><i>Amended Sections</i></b>	<b><i>Bulletin Vol. Proposed Rule</i></b>	<b><i>Bulletin Vol. Pending Rule</i></b>	<b><i>Final Effective Date</i></b>
58-0111-0801	007, 400, 401	08-8	08-12	(7-1-09)
<b>58.01.12 - Rules for Administration of Water Pollution Control Loans</b>				
58-0112-0801	001-010, 021-059, 995-999	08-6	09-1	(5-8-09)
<b>58.01.16 - Wastewater Rules</b>				
58-0116-0801	004, 007, 010-201, 400, 401, 403-411, 425-430, 441-455, 490, 493, 500, 519, 660	08-8	08-12	(5-8-09)
<b>58.01.24 - Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites</b>				
58-0124-0801	New Chapter	08-10	08-12	(5-8-09)
<b>IDAPA 59 - Public Employees Retirement System - PERSI</b>				
<b>59.01.02 - Eligibility Rules of the Public Employee Retirement System of Idaho</b>				
59-0102-0801	122	08-10	08-12	(5-8-09)
<b>59.01.03, Contribution Rules of PERSI</b>				
59-0103-0801	026-028, 100, 101	08-1	08-9	(5-8-09)
<b>59.01.04 - Disability Rules of the Public Employee Retirement System of Idaho</b>				
59-0104-0801	100, 101	08-10	08-12	(5-8-09)
<b>59.01.05 - Separation from Service Rules for the Public Employee Retirement System of Idaho</b>				
59-0105-0801	125	08-10	08-12	(5-8-09)
59-0105-0802	126, 127	08-10	08-12	(5-8-09)
59-0105-0803	100	08-10	08-12	(5-8-09)
<b>59.01.06 - Retirement Rules of the Public Employee Retirement System of Idaho</b>				
59-0106-0801	132, 178	08-10	08-12	(5-8-09)



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

**ADMINISTRATIVE RULES REVIEWED BY THE SIXTIETH  
LEGISLATURE OF THE STATE OF IDAHO  
FIRST REGULAR SESSION - 2009**

**OMNIBUS RULEMAKING NOTICE OF FINAL LEGISLATIVE ACTION ON  
PENDING RULES AND TEMPORARY RULES**

**AUTHORITY:** In compliance with Sections 67-5224(5), 67-5224(7), 67-5226(3), and 67-5291, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Sixtieth Legislature in the First Regular Session - 2009, reviewed all pending rules, has approved them as final or rejected them in whole or in part, and has extended temporary rules or rejected same in whole or in part. The docket numbers of the affected rulemakings and their effective dates are listed here in this notice.

**DESCRIPTIVE SUMMARY:** The following lists of final and temporary rules include those rules that were reviewed as pending and temporary rules during the First Regular Session of the Sixtieth Legislature of the state of Idaho, 2009.

Those pending rules reviewed by the legislature that were not rejected in whole or in part have been approved and adopted and are now final rules. Those pending rules that were rejected in whole or in part are listed with the corresponding House or Senate concurrent resolution rejecting them. Those concurrent resolutions are also printed in this Bulletin. Rulemakings that were rejected in whole and those parts of rulemakings that were partially rejected are null, void and of no force and effect.

Pursuant to Section 67-5224, Idaho Code, all pending rules that imposed fees or charges were approved or rejected in whole or in part by Senate Concurrent Resolution 107 and are now final rules. Rulemakings that were rejected in whole and those parts of rulemakings that were partially rejected are null, void and of no force and effect.

Pursuant to Section 67-5226, Idaho Code, all temporary rules submitted for review were extended by Senate Concurrent Resolution 108. There were no temporary rulemaking rejections listed in SCR 108.

The following tables list the docket number of the rulemaking, the volume number of the Idaho Administrative Bulletin in which the proposed, pending, and temporary rule text was published, the effective date of the rule, and the number of the Senate or House concurrent resolution, if applicable, affecting the rulemaking.

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
01-0101-0801	08-11	08-6	(5-8-09)	---	---
02-0104-0801	09-1	08-10	(5-8-09)	---	---
02-0214-0801	08-10	08-7	(5-8-09)	---	---
02-0214-0802	08-11	08-9	(4-9-09)	---	Fee Approved by SCR 107
02-0303-0801	09-1	08-8	(5-8-09)	---	---
02-0403-0801	09-1	08-10	(5-8-09)	---	---
02-0421-0801	09-1	08-10	(5-8-09)	---	---
02-0421-0802	09-1	08-10	(5-8-09)	---	---
02-0427-0801	09-1	08-10	(5-8-09)	---	---

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
02-0602-0801	09-1	08-8	(5-8-09)	---	---
02-0612-0801	09-1	08-8	(5-8-09)	---	---
02-0618-0801	09-1	08-8	(4-9-09)	---	Fee Approved by SCR 107
02-0631-0801	09-1	08-8	(5-8-09)	---	---
02-0641-0801	09-1	08-8	(5-8-09)	---	---
03-0101-0801	08-12	08-10	(5-8-09)	---	---
06-0101-0801	08-10	08-10	(10-31-08)	---	---
07-0102-0801	08-11	08-9	(4-9-09)	---	Fee Approved by SCR 107
07-0103-0801	08-11	08-8	(5-8-09)	---	---
07-0105-0801	08-9	08-7	(5-8-09)	---	---
07-0203-0801	08-11	08-9	(4-9-09)	---	Fee Approved by SCR 107
07-0203-0802	08-12	08-10	(4-9-09)	---	Fee Approved by SCR 107
07-0204-0801	08-11	08-8	(5-8-09)	---	---
07-0205-0801	08-12	08-10	(5-8-09)	---	---
07-0206-0801	08-11	08-9	(5-8-09)	---	---
07-0301-0801	08-11	08-8	(5-8-09)	---	---
07-0301-0802	08-11	08-9	(4-9-09)	---	Fee Approved by SCR 107
07-0303-0801	08-12	08-10	(5-8-09)	---	---
07-0402-0801	08-11	08-9	(5-8-09)	---	---
07-0402-0802	08-11	08-9	(4-9-09)	---	Fee Approved by SCR 107
07-0501-0801	08-9	08-7	(4-9-09)	---	Fee Approved by SCR 107
07-0501-0802	08-12	08-10	(5-8-09)	---	---
07-0701-0801	08-11	08-9	(4-9-09)	---	Fee Approved by SCR 107
07-0701-0802	08-12	08-10	(5-8-09)	---	---
08-0104-0801	09-1	08-10	(5-8-09)	---	---
08-0111-0801	09-1	08-6	(5-8-09)	---	---
08-0111-0802	09-1	08-6	(4-9-09)	---	Fee Approved by SCR 107
08-0202-0801	09-1	08-1	(5-8-09)	---	---
08-0202-0802	09-1	08-6	(5-8-09)	---	---
08-0202-0803	09-1	08-10	(5-8-09)	---	---
08-0202-0804	09-1	08-10	(4-9-09)	---	Fee Approved by SCR 107

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
08-0202-0805	09-1	08-10	(5-8-09)	---	---
08-0202-0806	09-1	08-10	(5-8-09)	---	---
08-0202-0807	09-1	08-10	(4-9-09)	---	Fee Approved by SCR 107
08-0203-0802	09-1	08-6	(5-8-09)	---	---
08-0203-0803	09-1	08-10	(5-8-09)	---	---
08-0203-0804	09-1	08-10	(5-8-09)	---	---
08-0203-0805	09-1	08-11	(5-8-09)	---	---
09-0108-0801	08-11	08-8	(5-8-09)	---	---
09-0135-0801	08-11	08-8	(5-8-09)	---	---
10-0101-0801	09-1	08-10	(5-8-09)	---	---
10-0102-0801	09-1	08-10	(5-8-09)	---	---
10-0103-0801	09-1	08-10	(5-8-09)	---	---
10-0104-0801	09-1	08-10	(5-8-09)	---	---
11-0402-0801	09-1	08-10	(4-9-09)	---	Fee Approved by SCR 107
11-0402-0802	09-1	08-10	(4-9-09)	---	Fee Approved by SCR 107
11-0403-0801	08-12	08-1	(4-9-09)	---	Fee Approved by SCR 107
11-0413-0801	09-1	08-10	(5-8-09)	---	---
11-0701-0801	08-11	08-9	(5-8-09)	---	---
11-1101-0801	08-12	08-10	(5-8-09)	---	---
11-1104-0801	08-11	08-9	(5-8-09)	---	---
11-1105-0801	08-8	08-6	(5-8-09)	---	---
12-0110-0701	09-1	08-7	(5-8-09)	---	---
13-0104-0801	09-1	08-10	(5-8-09)	---	---
13-0104-0802	09-1	08-10	(5-8-09)	---	---
13-0104-0803	09-1	08-10	Rejected	Entire Docket	Rejected by SCR 104
13-0107-0801	09-1	08-10	(5-8-09)	---	---
13-0108-0801	09-1	08-10	Rejected	Entire Docket	Rejected by SCR 105
13-0108-0802	09-1	08-10	(5-8-09)	---	---
13-0108-0803	09-1	08-10	(5-8-09)	---	---
13-0109-0801	09-1	08-10	(5-8-09)	---	---
13-0111-0801	09-1	08-10	(5-8-09)	---	---

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
13-0111-0802	09-1	08-10	(5-8-09)	---	---
13-0116-0801	09-1	08-10	(5-8-09)	---	---
13-0117-0801	09-1	08-10	(5-8-09)	---	---
13-0119-0801	09-1	08-10	(5-8-09)	---	---
13-0120-0801	09-1	08-10	(5-8-09)	---	---
14-0101-0801	08-12	08-10	(4-9-09)	---	Fee Approved by SCR 107
15-0202-0801	08-12	08-10	(5-8-09)	---	---
15-0401-0801	09-1	08-10	(5-8-09)	---	---
16-0202-0801	08-11	08-7	(5-8-09)	---	---
16-0208-0801	09-1	08-5	(5-8-09)	---	---
16-0224-0801	09-1	08-10	(5-8-09)	---	---
16-0226-0801	09-1	08-10	(4-9-09)	---	Fee Approved by SCR 107
16-0301-0801	08-11	08-8	(5-8-09)	---	---
16-0301-0802	09-1	08-10	(5-8-09)	---	---
16-0303-0801	08-9	08-6	(4-9-09)	---	Fee Approved by SCR 107
16-0303-0802	09-1	08-10	(5-8-09)	---	---
16-0304-0801	08-9	08-6	(5-8-09)	---	---
16-0304-0802	08-11	08-8	(5-8-09)	---	---
16-0304-0803	08-11	09-1	(5-8-09)	---	---
16-0305-0801	08-11	08-8	(5-8-09)	---	---
16-0305-0802	09-1	08-10	(5-8-09)	---	---
16-0306-0801	08-11	08-8	(5-8-09)	---	---
16-0308-0801	08-9	08-6	(5-8-09)	---	---
16-0308-0802	08-11	08-8	(5-8-09)	---	---
16-0308-0803	09-1	08-10	(5-8-09)	---	---
16-0309-0707	08-7	07-11	(5-8-09)	---	---
16-0309-0708	08-4	07-12	(5-8-09)	---	---
16-0309-0709	08-4	07-12	(5-8-09)	---	---
16-0309-0801	09-1	08-10	(5-8-09)	---	---
16-0309-0802	09-1	08-10	(5-8-09)	---	---
16-0309-0803	09-1	08-10	(5-8-09)	---	---

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
16-0310-0705	08-7	07-11	(5-8-09)	---	---
16-0310-0706	08-5	07-11	(5-8-09)	---	---
16-0310-0707	08-4	07-12	(5-8-09)	---	---
16-0310-0801	09-1	08-10	(5-8-09)	---	---
16-0310-0802	09-1	08-10	(5-8-09)	---	---
16-0310-0803	09-1	08-10	(5-8-09)	---	---
16-0314-0801	08-7	08-1	(5-8-09)	---	---
16-0320-0801	09-1	08-10	(5-8-09)	---	---
16-0403-0801	08-8	08-1	(5-8-09)	---	---
16-0416-0801	09-1	08-10	(5-8-09)	---	---
16-0416-0802	09-1	08-10	(5-8-09)	---	---
16-0503-0801	09-1	08-8	(5-8-09)	---	---
16-0506-0801	08-11	08-7	(4-9-09)	---	Fee Approved by SCR 107
16-0601-0801	09-1	08-10	(5-8-09)	---	---
16-0602-0801	09-1	08-9	(7-1-09)	---	---
16-0602-0802	09-1	08-10	(4-9-09)	---	Fee Approved by SCR 107
16-0612-0801	08-9	08-6	(5-8-09)	---	---
16-0612-0802	09-1	08-10	(4-9-09)	009.03	Partial Rejection by SCR 107
16-0612-0803	09-1	08-10	(7-1-09)	---	---
16-0613-0801	08-11	08-8	(5-8-09)	---	---
16-0614-0801	09-1	08-9	(5-8-09)	---	---
16-0701-0801	09-1	08-1	(4-9-09)	---	Fee Approved by SCR 107
16-0710-0801	08--8	08-1	(5-8-09)	---	---
16-0717-0801	09-1	08-1	(5-8-09)	---	---
16-0725-0801	09-1	08-9	(5-8-09)	---	---
16-0733-0801	08-10	08-1	(5-8-09)	---	---
16-0737-0801	09-1	08-10	(5-8-09)	---	---
17-0204-0801	09-1	08-7	(5-8-09)	---	---
17-0208-0802	09-1	08-10	Rejected	Entire Docket	Rejected by HCR 29
18-0109-0801	08-11	08-8	(5-8-09)	---	---
18-0129-0801	08-12	08-7	(5-8-09)	---	---

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
18-0139-0801	08-12	08-10	(5-8-09)	---	---
18-0139-0802	08-12	08-10	(5-8-09)	---	---
18-0143-0801	08-12	08-10	(5-8-09)	---	---
18-0144-0801	08-12	08-10	(4-9-09)	---	Fee Approved by SCR 107
18-0161-0801	08-12	08-10	(5-8-09)	---	---
18-0162-0801	08-10	08-8	(5-8-09)	---	---
18-0173-0801	08-12	08-10	(5-8-09)	---	---
18-0177-0801	08-10	08-7	(5-8-09)	---	---
18-0180-0801	08-11	08-9	(5-8-09)	---	---
20-0201-0801	09-1	08-9	(5-8-09)	---	---
20-0209-0801	09-1	08-9	(5-8-09)	---	---
20-0210-0801	09-1	08-9	(5-8-09)	---	---
20-0214-0801	09-1	08-9	(5-8-09)	---	---
20-0602-0801	09-1	08-9	(5-8-09)	---	---
20-0603-0801	09-1	08-9	(5-8-09)	---	---
21-0101-0801	08-12	08-10	(5-8-09)	---	---
21-0104-0801	08-9	08-7	(4-9-09)	---	Fee Approved by SCR 107
21-0104-0802	08-11	08-9	(5-8-09)	---	---
21-0105-0801	08-11	08-8	(5-8-09)	---	---
22-0101-0801	08-12	08-9	(5-8-09)	---	---
22-0103-0801	08-12	08-9	(4-9-09)	---	Fee Approved by SCR 107
23-0101-0801	08-11	08-9	(5-8-09)	---	---
24-0201-0801	08-12	08-7	(5-8-09)	---	---
24-0401-0801	08-12	08-10	(5-8-09)	---	---
24-0401-0802	08-12	08-10	(4-9-09)	---	Fee Approved by SCR 107
24-0501-0801	09-1	08-9	(5-8-09)	---	---
24-0801-0801	08-12	08-10	(5-8-09)	---	---
24-0801-0802	08-12	08-10	(4-9-09)	---	Fee Approved by SCR 107
24-1101-0801	08-12	08-9	(4-9-09)	---	Fee Approved by SCR 107
24-1201-0801	08-12	08-10	(5-8-09)	---	---
24-1301-0801	08-12	08-9	(4-9-09)	---	Fee Approved by SCR 107

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
24-1401-0801	08-12	08-10	(4-9-09)	---	Fee Approved by SCR 107
24-1501-0801	08-12	08-8	(4-9-09)	---	Fee Approved by SCR 107
24-1601-0801	08-12	08-9	(4-9-09)	---	Fee Approved by SCR 107
24-1801-0801	08-12	08-5	(5-8-09)	---	---
24-1901-0801	08-8	08-12	(5-8-09)		
24-2101-0801	08-12	08-10	(5-8-09)		
24-2401-0801	08-12	08-10	Rejected	Entire Docket	Rejected by SCR 107
25-0101-0802	09-1	08-11	(5-8-09)	---	---
26-0120-0801	09-1	08-10	(4-9-09)	---	Fee Approved by SCR 107
26-0120-0802	09-1	08-10	Rejected	Entire Docket	Rejected by SCR 106
27-0101-0801	08-12	08-9	(5-8-09)	---	---
27-0101-0802	08-12	08-9	(5-8-09)	---	---
27-0101-0803	09-1	08-9	(5-8-09)	---	---
27-0101-0804	08-12	08-9	(5-8-09)	---	---
27-0101-0805	09-1	08-10	(5-8-09)	---	---
27-0101-0806	08-12	08-10	(5-8-09)	---	---
27-0101-0807	08-12	08-10	(5-8-09)	---	---
27-0101-0808	08-12	08-10	(5-8-09)	---	---
27-0101-0809	08-12	08-10	(4-9-09)	---	Fee Approved by SCR 107
27-0101-0810	08-12	08-10	(5-8-09)	---	---
27-0101-0811	09-1	08-10	(5-8-09)	---	---
29-0102-0801	08-12	08-6	(4-9-09)	---	Fee Approved by SCR 107
30-0101-0801	08-11	08-8	(5-8-09)	---	---
31-0101-0801	08-12	08-10	(5-8-09)	---	---
31-7103-0801	08-11	08-9	(5-8-09)	---	---
33-0101-0801	08-12	08-9	(5-8-09)	---	---
35-0101-0801	09-1	08-10	(5-8-09)	---	---
35-0102-0801	09-1	08-10	(5-8-09)	---	---
35-0103-0801	09-1	08-7	(5-8-09)	---	---
35-0103-0802	09-1	08-10	(5-8-09)	---	---
35-0103-0804	09-1	08-10	(5-8-09)	---	---

<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
35-0105-0801	09-1	08-10	(5-8-09)	---	---
35-0110-0801	09-1	08-10	(5-8-09)	---	---
35-0111-0801	09-1	08-10	(5-8-09)	---	---
35-0201-0801	09-1	08-10	(5-8-09)	---	---
37-0301-0801	08-12	08-10	(5-8-09)	---	---
37-0309-0601	08-11	08-9	(5-8-09)	---	---
39-0207-0801	09-1	08-8	(5-8-09)	---	---
39-0222-0801	09-1	08-9	Rejected	Entire Docket	Rejected by HCR 17
39-0260-0801	09-1	08-8	(5-8-09)	---	---
39-0306-0801	09-1	08-9	(5-8-09)	---	---
39-0317-0801	09-1	08-10	(5-8-09)	---	---
39-0322-0801	09-1	08-10	(5-8-09)	---	---
39-0345-0801	09-1	08-9	(5-8-09)	---	---
39-0404-0801	09-1	08-10	(5-8-09)	---	---
40-0101-0801	08-12	08-10	(5-8-09)	---	---
41-0101-0801	08-12	08-10	(7-1-09)	---	---
46-0101-0801	08-12	08-10	(5-8-09)	---	---
47-0101-0801	09-1	08-10	(2-19-09)	100 and 301	Partial Rejection by HCR 9
49-0101-0701	08-12	08-10	(5-8-09)	---	---
49-0101-0801	08-12	08-10	(4-9-09)	500.01	Partial Rejection By SCR 107
52-0102-0801	08-11	08-9	(2-19-09)	303 and 304	Partial Rejection By HCR 10
52-0103-0801	08-11	08-9	(5-8-09)	---	---
52-0103-0802	08-12	08-10	Rejected	Entire Docket	Rejected By SCR 107
58-0101-0703	08-12	08-5	(5-8-09)	---	---
58-0101-0801	08-12	08-4	(5-8-09)	---	---
58-0101-0802	08-12	08-8	(5-8-09)		
58-0101-0803	09-1	08-9	(5-8-09)	---	---
58-0103-0801	08-12	08-8	Rejected	Entire Docket	Rejected by SCR 103
58-0105-0801	08-12	08-8	(5-8-09)	---	---
58-0108-0801	08-12	08-8	(5-8-09)	---	---
58-0108-0802	08-12	08-6	(5-8-09)	---	---



<b>PENDING RULES REVIEWED FOR FINAL APPROVAL BY THE 2009 IDAHO LEGISLATURE</b>					
<b>Docket Number</b>	<b>Bulletin Vol. No. Pending</b>	<b>Bulletin Vol. No. Proposed</b>	<b>Final Rule Effective</b>	<b>Rejected Sections Resolution</b>	<b>Action Taken by Concurrent</b>
58-0108-0803	09-1	08-9	(5-8-09)	---	---
58-0111-0801	08-12	08-8	(7-1-09)	---	Fee Approved by SCR 107
58-0112-0801	09-1	08-6	(5-8-09)	---	---
58-0116-0801	08-12	08-8	(5-8-09)	---	---
58-0124-0801	08-12	08-8	(5-8-09)	---	---
59-0102-0801	08-12	08-10	(5-8-09)	---	---
59-0103-0801	08-9	08-1	(5-8-09)	---	---
59-0104-0801	08-12	08-10	(5-8-09)	---	---
59-0105-0801	08-12	08-10	(5-8-09)	---	---
59-0105-0802	08-12	08-10	(5-8-09)	---	---
59-0105-0803	08-12	08-10	(5-8-09)	---	---
59-0106-0801	08-12	08-10	(5-8-09)	---	---

<b>TEMPORARY RULES EXTENDED OR REJECTED BY SENATE CONCURRENT RESOLUTION 108</b>			
<b>Docket Number</b>	<b>Effective Temporary Date</b>	<b>Action Taken By Concurrent Resolution</b>	<b>Bulletin Vol. Number</b>
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02-0610-0701	(11-1-07)T	Extended by SCR 108	07-12
08-0203-0901	(3-1-08)T	Extended by SCR 108	09-1
11-0401-0901	(1-1-09)T	Extended by SCR 108	09-1
11-0404-0901	(1-1-09)T	Extended by SCR 108	09-1
11-0404-0902	(1-1-09)T	Extended by SCR 108	09-1
11-0405-0901	(11-12-08)T	Extended by SCR 108	09-1
11-0406-0901	(1-1-09)T	Extended by SCR 108	09-1
11-0407-0901	(1-1-09)T	Extended by SCR 108	09-1
11-0408-0901	(1-1-08)T	Extended by SCR 108	09-1
11-0409-0901	(1-1-09)T	Extended by SCR 108	09-1
11-0410-0901	(1-1-09)T	Extended by SCR 108	09-1
11-0411-0901	(1-1-09)T	Extended by SCR 108	09-1

<b>TEMPORARY RULES EXTENDED OR REJECTED BY SENATE CONCURRENT RESOLUTION 108</b>			
<b>Docket Number</b>	<b>Effective Temporary Date</b>	<b>Action Taken By Concurrent Resolution</b>	<b>Bulletin Vol. Number</b>
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11-0415-0901	(1-1-09)T	Extended by SCR 108	09-1
16-0309-0804	(11-1-08)T	Extended by SCR 108	08-11
16-0310-0902	(1-1-09)T	Extended by SCR 108	09-1
16-0414-0801	(11-1-08)T	Extended by SCR 108	08-12
16-0739-0801	(1-1-09)T	Extended by SCR 108	09-1
16-0750-0901	(10-1-08)T	Extended by SCR 108	09-1
20-0101-0901	(11-11-08)T	Extended by SCR 108	09-1
21-0104-0901	(11-14-08)T	Extended by SCR 108	09-1
24-0701-0801	(10-1-08)T	Extended by SCR 108	08-12
30-0101-0901	(10-24-08)T	Extended by SCR 108	09-1
35-0201-0802	(11-1-08)T	Extended by SCR 108	08-12

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this notice contact Ed Hawley or Brad Hunt (208) 332-1820.

DATED this 8th day of May, 2009.

Dennis R. Stevenson  
Administrative Rules Coordinator  
Office of the Administrative Rules Coordinator  
Department of Administration  
P.O. Box 83720  
Boise, ID 83720-0306  
Phone: (208) 332-1820  
Fax: (208) 332-1896

## **SENATE CONCURRENT RESOLUTION NO. 103**

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature, First Regular Session - 2009

IN THE SENATE  
SENATE CONCURRENT RESOLUTION NO. 103  
BY HEALTH AND WELFARE COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING  
A CERTAIN RULEMAKING DOCKET OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
RELATING TO INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rulemaking docket of the Department of Environmental Quality relating to Individual/Subsurface Sewage Disposal Rules is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 58.01.03, rules governing Individual/Subsurface Sewage Disposal Rules, Rules of the Department of Environmental Quality, adopted as a pending rule under Docket Number 58-0103-0801, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

### **Statement of Purpose / Fiscal Impact:**

#### **STATEMENT OF PURPOSE RS18599**

This concurrent resolution would reject an entire docket of a pending rule of the Department of Environmental Quality relation to Individual/Subsurface Sewage Disposal Rules. The effect of this resolution, if adopted by both houses, would be to prevent the agency rulemaking contained in that docket from going into effect.

#### **FISCAL NOTE**

This concurrent resolution has no fiscal impact.

Adopted: April 9, 2009.

Contact:  
Name: Senator Patti Anne Lodge  
Phone: (208) 332-1319

## **SENATE CONCURRENT RESOLUTION NO. 104**

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature, First Regular Session - 2009

IN THE SENATE  
SENATE CONCURRENT RESOLUTION NO. 104  
BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE  
AND REJECTING A CERTAIN RULE DOCKET OF THE FISH AND GAME COMMISSION  
RELATING TO RULES GOVERNING LICENSING

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Fish and Game Commission relating to Rules Governing Licensing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.04, Rules Governing Licensing, Rules of the Fish and Game Commission, adopted as a pending rule under Docket Number 13-0104-0803, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

### **Statement of Purpose / Fiscal Impact:**

#### **STATEMENT OF PURPOSE RS18706**

This concurrent resolution would reject an entire docket of a pending rule of the Fish and Game Commission relating to Rule Governing Licensing. The effect of this resolution, if adopted by both houses, would be to prevent the agency rulemaking contained in that docket from going into effect.

#### **FISCAL NOTE**

This concurrent resolution has no fiscal impact.

Adopted: April 9, 2009.

Contact:  
Name: Senator Steve Bair  
Phone: (208) 332-1385

## **SENATE CONCURRENT RESOLUTION NO. 105**

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature, First Regular Session - 2009

IN THE SENATE  
SENATE CONCURRENT RESOLUTION NO. 105  
BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING  
A CERTAIN RULE DOCKET OF THE FISH AND GAME COMMISSION RELATING TO  
RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Fish and Game Commission relating to Rules Governing the Taking of Big Game Animals in the state of Idaho is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.08, Rules Governing the Taking of Big Game Animals in the state of Idaho, Rules of the Fish and Game Commission, adopted as a pending rule under Docket Number 13-0108-0801, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

### **Statement of Purpose / Fiscal Impact:**

#### **STATEMENT OF PURPOSE RS18707**

This concurrent resolution would reject an entire docket of a pending rule of the Fish and Game Commission relating to Rules Governing the Taking of Big Game Animals in the state of Idaho. The effect of this resolution, if adopted by both houses, would be to prevent the agency rulemaking contained in that docket from going into effect.

#### **FISCAL NOTE**

This concurrent resolution has no fiscal impact.

Adopted: April 9, 2009.

Contact:  
Name: Senator Steve Bair  
Phone: (208) 332-1385

## SENATE CONCURRENT RESOLUTION NO. 106

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature, First Regular Session - 2009

IN THE SENATE  
SENATE CONCURRENT RESOLUTION NO. 106  
BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE DEPARTMENT OF PARKS AND RECREATION RELATING TO RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Department of Parks and Recreation relating to Rules Governing the Administration of Park and Recreation Areas and Facilities is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities, Rules of the Department of Parks and Recreation, adopted as a pending rule under Docket Number 26-0120-0802, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

### Statement of Purpose / Fiscal Impact:

#### STATEMENT OF PURPOSE RS18708

This concurrent resolution would reject an entire docket of a pending rule of the Department of Parks and Recreation relating to Rules Governing the Administration of Park and Recreation Areas and Facilities. The effect of this resolution, if adopted by both houses, would be to prevent the agency rulemaking contained in that docket from going into effect.

#### FISCAL NOTE

This concurrent resolution has no fiscal impact.

Adopted: April 9, 2009.

Contact:  
Name: Senator Steve Bair  
Phone: (208) 332-1385

## SENATE CONCURRENT RESOLUTION NO. 107

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature, First Regular Session - 2009

IN THE SENATE  
SENATE CONCURRENT RESOLUTION NO. 107  
BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION STATING LEGISLATIVE FINDINGS  
AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE,  
WITH STATED EXCEPTIONS, REJECTING CERTAIN AGENCY RULES THAT ARE NOT  
APPROVED AND PROVIDING AN EFFECTIVE DATE FOR A CERTAIN RULE

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Bureau of Occupational Licenses governing Rules of the Board of Naturopathic Medical Examiners is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Health and Welfare governing the Idaho Child Care Program (ICCP) is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Idaho State Lottery, Rules Governing Operations of the Idaho State Lottery is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Certified Shorthand Reporters, Rules of Procedure of the Idaho Certified Shorthand Reporters Board is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Department of Environmental Quality, Ground Water Quality Rule shall become final and effective on July 1, 2009; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of the Administrative Rules Coordinator to the Legislature for review during the 2009 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 24.24.01, Rules of the Bureau of Occupational Licenses, Rules of the Board of Naturopathic Medical Examiners, adopted as pending fee rules under Docket Number 24-2401-0801, the entire rulemaking docket;

IDAPA 16.06.12, Rules of the Department of Health and Welfare, Idaho Child Care Program (ICCP), Section 009, Criminal History and Background Check Requirements, Subsection 03, Individual in the Home, only, adopted as a pending fee rule under Docket Number 16-0612-0802;

IDAPA 52.01.03, Rules of the Idaho State Lottery, Rules Governing Operations of the Idaho State Lottery, adopted as pending fee rules under Docket Number 52-0103-0802, the entire rulemaking docket; and

IDAPA 49.01.01, Rules of the Certified Shorthand Reporters, Rules of Procedure of the Idaho Certified Shorthand Reporters Board, Section 500, Disciplinary Penalty, Subsection 01, Civil Fine, only, adopted as a pending fee rule under Docket Number 49-0101-0801.

BE IT FURTHER RESOLVED that IDAPA 24.24.01, Rules of the Bureau of Occupational Licenses, Rules of the Board of Naturopathic Medical Examiners, adopted as pending fee rules under Docket Number 24-2401-0801, the entire rulemaking docket; IDAPA 16.06.12, Rules of the Department of Health and Welfare, Idaho Child Care Program (ICCP), Section 009, Criminal History and Background Check Requirements, Subsection 03, Individual in the Home, only, adopted as a pending fee rule under Docket Number 16-0612-0802; IDAPA 52.01.03, Rules of the Idaho State Lottery, Rules Governing Operations of the Idaho State Lottery, adopted as pending fee rules under Docket Number 52-0103-0802, the entire rulemaking docket; and IDAPA 49.01.01, Rules of the Certified Shorthand Reporters, Rules of Procedure of the Idaho Certified Shorthand Reporters Board, Section 500, Disciplinary Penalty, Subsection 01, Civil Fine, only, adopted as a pending fee rule under Docket Number 49-0101-0801 are hereby rejected and not approved, and thereby pursuant to Section 67-5291 and Section 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED that rule provisions imposing fees or charges that were not submitted through the Office of the Administrative Rules Coordinator for legislative review or that otherwise are not included and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

BE IT FURTHER RESOLVED that IDAPA 58.01.11, Rules of the Department of Environmental Quality, Ground Water Quality Rule, adopted as a pending rule docket under Docket Number 58-0111-0801, the entire rulemaking docket, shall become effective on July 1, 2009.

**Statement of Purpose / Fiscal Impact:**

**STATEMENT OF PURPOSE**  
**RS18770**

By statute, agency rules adopted under the Administrative Procedure Act that impose a fee or charge do not go into effect unless approved by concurrent resolution of both houses of the Legislature. This concurrent resolution would approve agency fee or charge rules that have been adopted during the last calendar year, and which were submitted through the Office of the Administrative Rules Coordinator to the Legislature or review during the current legislative session, with four exceptions:

- (1) A rule docket of the Bureau of Occupational licenses relating to Rules of the Board of Naturopathic Medical Examiners that was not approved by the Senate Health and Welfare Committee;
- (2) a rule subsection of the Department of Health and Welfare relating to the Idaho Child Care Program (ICCP) that was not approved by the House Health and Welfare Committee;
- (3) a fee rule docket of the Idaho State Lottery relating to rules Governing Operations of the Idaho State Lottery that was not approved by the House State Affairs committee; and
- (4) a rule subsection of the Certified Shorthand Reporters relating to Rules of Procedure of the Idaho Certified Shorthand Reporters Board that was not approved by the House Judiciary, rules and Administration Committee.

In Addition, this omnibus fee concurrent resolution provides a July 1, 2009, effective date for a rule docket of the Department of Environmental Quality relating to Ground Water Quality Rule.



**FISCAL NOTE**

Adoption of this concurrent resolution, in and of itself, could have no fiscal impact upon any state or local government funds or accounts, beyond the scope or impact of the individual rules themselves.

Adopted: April 9, 2009.

Contact:  
Name: Paige Alan Parker  
Office: Legislative Services Office  
Phone: (208) 334-4857

## SENATE CONCURRENT RESOLUTION NO. 108

LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature, First Regular Session - 2009

IN THE SENATE  
SENATE CONCURRENT RESOLUTION NO. 108  
BY STATE AFFAIRS COMMITTEE

### A CONCURRENT RESOLUTION STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all temporary rules adopted by state agencies pursuant to the Administrative Procedure Act and submitted to the Legislature at the Legislature's request through the Office of the Administrative Rules Coordinator for review during the 2009 legislative session, and all temporary rules previously approved and extended by concurrent resolution adopted in a prior regular session of the Idaho Legislature, be, and the same are approved.

BE IT FURTHER RESOLVED that a temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the Second Regular Session of the Sixtieth Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules or sections of temporary rules which were not submitted to the Legislature for review during the 2009 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Sixtieth Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

#### **Statement of Purpose / Fiscal Impact:**

#### **STATEMENT OF PURPOSE RS18781**

Temporary rules adopted by state agencies under the Administrative Procedure Act, by statute, expire at the end of the current legislative session. This concurrent resolution would approve and extend agency temporary rules beyond the current session. No temporary rules were rejected by the Legislature during this year's rules review.

#### **FISCAL NOTE**

Adoption of this concurrent resolution, in and of itself, could have no fiscal impact upon any state or local government funds or accounts, beyond the scope or impact of the individual rules themselves. By adopting this concurrent resolution, the legislature avoids having necessary agency rules expire, which would occasion additional expense to state agencies for readopting and republishing temporary rules needed to conduct state business.

Adopted: April 9, 2009.

Contact:  
Name: Paige Alan Parker  
Office: Legislative Services Office  
Phone: (208) 334-4857

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### 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 latest publication of the state Administrative Bulletin.

*The written comment submission deadline is June 24, 2009 unless otherwise listed.  
(Temp & Prop) indicates the rule is both temporary and proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

#### **IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790**

**02-0609-0901, Rules Governing Invasive Species.** (Temp & Prop) New chapter determines which species are invasive in Idaho and establishes procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping; establishes a classification system for aquatic invasive species to assist in control or eradication. Comment by: 7/22/09.

#### **IDAPA 08 - BOARD OF EDUCATION / DEPARTMENT OF EDUCATION PO Box 83720, Boise, ID 83720-0027**

##### **08.02.02, Rules Governing Uniformity**

**08-0202-0901** - Establishes state wide minimum standards for a fair, thorough, consistent and efficient system for evaluating teacher performance based on Dr. Charlotte Danielson's Framework For Teaching.

**08-0202-0902** - (Temp & Prop) Addresses the Highly Qualified Teacher federal mandate by providing 4 additional options to expedite attainment of endorsements for teachers needed to teach in areas outside of their current endorsement. These include traditional coursework through a college or university, National Board certification, content specific graduate degree, and standardized content testing (Praxis II) with a mentoring component and/or pedagogical assessment.

**08-0202-0903** - Addresses the attainment of Highly Qualified Teacher status by adding to the PTE and social studies endorsements and by expediting the attainment of endorsements for teachers needed to teach in areas outside of their current endorsement.

**08-0203-0902, Rules Governing Thoroughness.** Updates the Idaho Content Standards for social studies, physical education, health, chemistry and humanities as part of the 6-year curricular materials adoption cycle.

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

**16-0416-0901, Weatherization Assistance Program in Idaho.** (Temp & Prop) Updates program eligibility criteria by increasing the income level to 200% of the federal poverty level as part of the American Recovery and Reinvestment Act of 2009.

#### **IDAPA 18 - DEPARTMENT OF INSURANCE PO Box 83720, Boise, Idaho 83720-0043**

**18-0154-0901, Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.** (Temp & Prop) Changes comply with federal requirements contained in the Genetic Information Nondiscrimination Act, the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and the Medicare Improvements for Patients and Provider Act of 2008.

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION  
PO Box 83720, Boise ID 83720-0065**

**26-0134-0901, Idaho Protection Against Invasive Species Sticker Rules.** (Temp & Prop) Implements HB 213 through the creation, distribution, and sale of a Protection Against Invasive Species Sticker; provides for fee collection and distribution, sticker placement guidance, enforcement provisions and definitions.

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

**58-0101-0901, Rules for the Control of Air Pollution in Idaho.** (\*PH) Implements Idaho Code § 39-116B, which requires DEQ to establish minimum requirements for a vehicle emissions testing program when ambient air quality concentrations are at or above 85% of a national ambient air quality standard, by assisting affected local entities in determining whether to (1) enter into a joint exercise of powers agreement to implement the vehicle emissions testing program or (2) establish an alternative program in lieu of vehicle emissions testing. If local entities do not choose either option, DEQ must implement the vehicle emissions program. Comment by: 7/14/09.

**58-0116-0802, Wastewater Rules.** Allows for the creation of a combined very small wastewater treatment and collection system classification for communities with 500 or fewer connections and addresses the need to create a very small wastewater system operator license, to simplify the licensure process and to reduce the number of licenses required to operate various small systems to help avoid noncompliance issues. Comment by: 7/1/09.

***THE FOLLOWING TEMPORARY RULES HAVE BEEN ADOPTED:***

**IDAPA 17 - Industrial Commission**  
17-0208-0901, Miscellaneous Provisions

***NEGOTIATED RULEMAKING MEETINGS HAVE BEEN SCHEDULED FOR THE FOLLOWING:***

**IDAPA 07 - Division of Building Safety**  
07-0301-0901, Rules of Building Safety

**IDAPA 10 - Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors**  
10-0101-0901, Rules of Procedure  
10-0102-0901, Rules of Professional Responsibility

**IDAPA 16 - Department of Health and Welfare**  
16-0404-0901, Early Intervention Services for Infants and Toddlers

Please refer to the Idaho Administrative Bulletin, **June 3, 2009, Volume 09-6** for all rulemaking notices, the notices and text of all temporary and proposed rulemakings, public hearings and negotiated rulemaking meeting schedules, Governor's executive orders, 2009 House and Senate concurrent resolutions affecting rules, the Omnibus Rulemaking Notice of all final and extended temporary rules, history notes, and agency contact information.

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

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



**CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

**FOR THE ABOVE LINK TO WORK,  
YOU MUST BE CONNECTED TO THE INTERNET**

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

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