

IDAHO ADMINISTRATIVE BULLETIN

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April 7, 2010 -- Volume 10-4

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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 08-1 refers to the first Bulletin issued in calendar year 2008; Bulletin 09-1 refers to the first Bulletin issued in calendar year 2009. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 09-1 refers to January 2009; Volume No. 09-2 refers to February 2009; and so forth. Example: The Bulletin published in January 2009 is cited as Volume 09-1. The December 2008 Bulletin is cited as Volume 08-12.

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.

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

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 "-", (38-0501-0901). 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. 38-0501-0901"

"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).

"0901" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in calendar year 2009. A subsequent rulemaking on this same rule chapter in calendar year 2009 would be designated as "0902". The docket number in this scenario would be 38-0501-0902.

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 these rules." OR "...in accordance with Subsection 201.06.c. of these rules."

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

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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2010

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
10-1	January 2010	*November 13, 2009	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 24, 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
10-6	June 2010	April 30, 2010	June 2, 2010	June 23, 2010
10-7	July 2010	June 4, 2010	July 7, 2010	July 28, 2010
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	**August 27, 2010	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. 2010-01

**ESTABLISHING THE BEHAVIORAL HEALTH TRANSFORMATION WORKGROUP
REPEALING AND REPLACING EXECUTIVE ORDER 2009-04**

WHEREAS, Idaho citizens and their families should have appropriate access to quality services provided through the public mental health and substance abuse systems that are coordinated, efficient and accountable; and

WHEREAS, Idaho's mental health and substance use disorder system is fragmented; and

WHEREAS, recent findings through the Western Interstate Commission for Higher Education (WICHE) identified weaknesses facing Idaho's coordination of the co-occurring mental health and substance abuse services; and

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 this state do hereby create the Governor's Behavioral Health Transformation Workgroup (Workgroup).

- 1. Members of the Workgroup shall be appointed by and serve at the pleasure of the Governor.*
- 2. The chair of the Workgroup shall be appointed by and serve at the pleasure of the Governor.*
- 3. The members of the Workgroup shall include but are not limited to:*
 - Director, Department of Health and Welfare;*
 - Director, Department of Correction;*
 - Director, Department of Juvenile Corrections;*
 - Superintendent of the State Department of Education;*
 - Representatives of law enforcement;*
 - Administrator, Office of Drug Policy;*
 - Chair of the Statewide Drug and Mental Health Court Coordinating Committee;*
 - Chair of Idaho State Planning Council on Mental Health;*
 - One representative from the Association of Idaho counties;*
 - One citizen with experience in mental health service delivery issues;*
 - One citizen to represent consumers served by the system.*
- 4. The Workgroup shall:*
 - a. Develop a plan for a coordinated, efficient state behavioral health infrastructure with clear responsibilities, leadership authority and action; and*
 - b. Provide for stakeholder participation in the development and evaluation of the plan.*
- 5. The plan shall be presented to the Governor by October 1, 2010.*
- 6. The Workgroup shall also present its plan to both the Senate and House Health and Welfare Committees and the Legislative Healthcare Taskforce during the 2011 legislative session.*



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 25th day of February in the year of our Lord two thousand and ten and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0904

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is January 1, 2010. This pending rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 42 USC 1396d(p)(1)(C) and 42 USC 1396d(s).

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

The Department is amending the text of the proposed rules and the temporary rule based on federal guidance from the Centers for Medicare and Medicaid Services (CMS). CMS has provided this guidance to implement the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008. The amendments to these rules align the Medicare Saving Program for Qualified Medicare Beneficiary (QMB), the Specified Low-Income Medicare Beneficiary SLMB, and the Qualifying Individual (QI) for Medicare Part B with the Full-Benefit Low-Income Subsidy (LIS) Program resource limits and updates references to the Social Security Act.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the December 2, 2009, Idaho Administrative Bulletin, Vol. 09-12, pages 85 through 88.

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

The fiscal impact for this rulemaking is based on the Qualified Medicare Beneficiary (QMB), the Specified Low-Income Medicare Beneficiary (SLMB), and the Qualifying Individual (QI) for Medicare Part B Premiums. For SFY 2010, the anticipated state general funds impact is \$199,700 and federal matching funds of \$777,700. For SFY 2011, the anticipated state general funds impact is \$1,834,000 and federal matching funds of \$5,496,300. These amounts are reflected in the Medicaid Trustee and Benefit expenditure projections for the state fiscal years of 2010 and 2011.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Susie Cummins at (208) 732-1419.

DATED this 10th day of March, 2010.

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

Boise, ID 83720-0036
phone: (208) 334-5564
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

DOCKET NO. 16-0305-0904 - ADOPTION OF PENDING RULE
AND AMENDMENT TO TEMPORARY RULE

Substantive changes have been made to the pending rule.
Italicized text that is underscored is new text that is being added.
Italicized text that is ~~underscored and struck through~~ is codified temporary text that is being removed from the temporary rule. This is also an amendment to the pending rule text.

Only those sections or subsections that have changed from the original temporary rule and proposed rule text are printed in this Bulletin following this notice.

The text of the temporary rule and the proposed rule published in the Idaho Administrative Bulletin, [Volume 09-12, December 2, 2009, pages 85 through 88.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE
PENDING RULE TEXT FOR DOCKET NO. 16-0305-0904

810. QUALIFIED MEDICARE BENEFICIARY (QMB).

A person meeting all requirements in Subsections 810.01 through 810.07 is eligible for QMB. QMB Medicaid pays Medicare premiums, coinsurance, and deductibles. (3-15-02)

Subsection 810.06

06. Resource Limit. *The resource limit for a single participant is four thousand dollars (\$4,000). The resource limit for a couple is six thousand dollars (\$6,000). Resources must not exceed the resource standard applied to the full low income subsidy is equal to the amount defined in under 42 U.S.C. 1395w-114 of the Social Security Act 1396d(p)(1)(C).* The resource exclusions used for AABD are used for QMB. (3-20-04)(1-1-10)F(1-1-10)T

811. SPECIFIED LOW INCOME MEDICARE BENEFICIARY (SLMB).

A person meeting all requirements in Subsections 811.01 through 811.07~~6~~ is eligible for SLMB. Medicaid pays the Medicare Part B premiums for a SLMB. The income and resource exclusions and disregards used for AABD are used for SLMB. (3-20-04)(1-1-10)T

Subsection 811.05

05. Resource Limit. *The resource limit for a single person is four thousand dollars (\$4,000). The resource limit for a couple is six thousand dollars (\$6,000). Resources must not exceed the resource standard applied to the full low income subsidy is equal to the amount defined in under 42 USC 1395w-114 of the Social Security Act 1396d(p)(1)(C).* The resource exclusions used for AABD are used for SLMB. (7-1-99)(1-1-10)F(1-1-10)T

812. Qualified Individual (QI).

A person meeting all requirements in Subsections 812.01 through 812.07 is eligible for QI. Medicaid pays the Medicare Part B premiums for a QI. The income and resource exclusions and disregards used for AABD are used for QI. (1-1-10)T

Subsection 812.05

05. Resource Limit. ~~Resources must not exceed~~ The resource standard applied to the full low income subsidy limit is equal to the amount defined ~~in~~ under 42 USC ~~1395-114~~ of the Social Security Act 1396d(p)(1)(C). The resource exclusions used for AABD are used for SLMB. (1-1-10)F(1-1-10)T

8123. QUALIFIED DISABLED AND WORKING INDIVIDUAL (QDWI).

A person meeting all requirements in Subsections 812.01 through 812.05 of these rules is eligible for QDWI. The person must not be eligible for any other type of Medicaid. A QDWI is eligible only for Medicaid payment of his Medicare Part A premium. (3-15-02)

Subsection 813.05

05. Resources Limit. ~~The resource limit is four thousand dollars (\$4,000)~~ Resources must not exceed the resource standard applied to the full low income subsidy equal to the amount defined ~~in~~ under 42 USC ~~1395-114~~ of the Social Security Act 1396d(s). The resource exclusions used for AABD are used for QDWI. (7-1-99)(1-1-10)F(1-1-10)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0308-1001

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective dates of these temporary rules are December 19, 2009, and January 1, 2010.

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 56-202, Idaho Code, 45 CFR Parts 260-265, and Public Law 111-118.

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

In order to better support and assist Idaho's low-income individuals in need of temporary assistance, the Department is amending these rules to align with federal regulations and other Department chapters on excluded resources and special immigrants. The U.S. Census that is conducted every ten years hires temporary employees to conduct this field work. The Department is excluding this temporary census income from countable income in order to treat income for TAFI the same as other benefit programs. Federal regulations updated the special immigrants length of eligibility and these rules are being amended to align with those updates.

The Department is removing barriers that have excluded participation under the Career Enhancement (CE) services to help participants obtain or maintain employment. These changes will align with Emergency Assistance services by: removing the requirement to have a job search assistance plan; removing the restriction from CE services for anyone who received emergency assistance payments in the past twelve months; and removing housing and utility costs from prohibited supportive service expenditures.

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:

These temporary rules confer a benefit by allowing participants to gain job experience through temporary employment with the Census Bureau without jeopardizing benefits and by removing barriers from receiving assistance through the Career Enhancement Program.

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.

The Career Enhancement (CE) program is 100% federally funded and this rulemaking has no anticipated fiscal impact to the state general fund for excluding this temporary income for TAFI participants. The fiscal impact in federal funds is \$300,000 for CE benefits, and \$24,700 for special immigrants.

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

DATED this 10th day of March, 2010.

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

THE FOLLOWING IS THE TEMPORARY TEXT FOR DOCKET NO. 16-0308-1001

131. CITIZENSHIP AND QUALIFIED NON-CITIZEN CRITERIA.

To be eligible, an individual must be a member of one (1) of the groups listed in Subsections 131.01 through 131.10 of this rule. (5-8-09)

- 01. U.S. Citizen.** A U.S. Citizen; or (3-20-04)
- 02. U.S. National, National of American Samoa or Swains Island.** A U. S. National, National of American Samoa or Swains Island; or (3-20-04)
- 03. Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member; or (3-20-04)
- 04. Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran; or (3-20-04)
- 05. Non-Citizen Entering the U.S. Before August 22, 1996.** A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c); or (3-20-04)
- 06. Non-Citizen Entering on or After August 22, 1996.** A non-citizen who entered on or after August 22, 1996, and (3-20-04)
- a.** Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; or (3-20-04)
- b.** Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; or (3-20-04)
- c.** Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; or (3-20-04)
- d.** Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-20-04)
- e.** Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry; or (3-20-04)
- 07. Qualified Non-Citizen Entering on or After August 22, 1996.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has had a qualified non-citizen status for at least five (5) years; or (3-20-04)
- 08. Victim of Severe Form of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)
- a.** Is under the age of eighteen (18) years; or (3-20-04)
- b.** Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-20-04)

09. Afghan Special Immigrants. An Afghan special immigrant, as defined in Public Law ~~110-161~~ 111-118, who has special immigration status after December 26, 2007, is eligible ~~for eight (8) months~~ from the date they enter into the U.S. as a special immigrant or the date they convert to the special immigrant status. ~~(3-11-09)T~~(12-19-09)T

10. Iraqi Special Immigrants. An Iraqi special immigrant, as defined in Public Law ~~110-181~~ 111-118, who has special immigration status after January 28, 2008, is eligible ~~for eight (8) months~~ from the date they enter the U.S. as a special immigrant or the date they convert to the special immigrant status. ~~(5-8-09)~~(12-19-09)T

(BREAK IN CONTINUITY OF SECTIONS)

215. EXCLUDED INCOME.

The types of income listed in Subsections 215.01 through 215.378 of this rule, are excluded. ~~(5-8-09)~~(1-1-10)T

- 01. Supportive Services.** Supportive services payments. (7-1-98)
- 02. Work Reimbursements.** Work-related reimbursements. (7-1-98)
- 03. Child's Earned Income.** Earned income of a dependent child, who is attending school. (7-1-98)
- 04. Child Support.** Child support payments assigned to the State and non-recurring child support payments received in excess of that amount. (7-1-98)
- 05. Loans.** Loans with a signed, written repayment agreement. (7-1-98)
- 06. Third Party Payments.** Payments made by a person directly to a third party on behalf of the family. (7-1-98)
- 07. Money Gifts.** Money gifts, up to one hundred dollars (\$100), per person per event, for celebrations typically recognized with an exchange of gifts. (7-1-98)
- 08. TAFI.** Retroactive TAFI grant corrections. (7-1-98)
- 09. Social Security Overpayment.** The amount withheld for a Social Security overpayment. Money withheld voluntarily or involuntarily to repay an overpayment from any other source is counted as income. (7-1-99)
- 10. Interest Income.** Interest posted to a bank account. (7-1-98)
- 11. Tax Refunds.** State and federal income tax refunds. (7-1-98)
- 12. EITC Payments.** EITC payments. (7-1-98)
- 13. Disability Insurance Payments.** Taxes withheld and attorney's fees paid to secure disability insurance payments. (7-1-98)
- 14. Sales Contract Income.** Taxes and insurance costs related to sales contracts. (7-1-98)
- 15. Foster Care.** Foster care payments. (7-1-98)

16. **Adoption Assistance.** Adoption assistance payments. (7-1-98)
17. **Food Programs.** Commodities and food stamps. (7-1-98)
18. **Child Nutrition.** Child nutrition benefits. (7-1-98)
19. **Elderly Nutrition.** Elderly nutrition benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965. (7-1-98)
1981. 20. **Low Income Energy Assistance.** Benefits paid under the Low Income Energy Assistance Act of 1981. (7-1-98)
9101. 21. **Home Energy Assistance.** Home energy assistance payments under Public Law 100-203, Section 9101. (7-1-98)
22. **Utility Reimbursement Payment.** Utility reimbursement payments. (7-1-98)
23. **Housing Subsidies.** An agency or housing authority pays a portion of or all of the housing costs for a participant. (5-8-09)
24. **Housing and Urban Development (HUD) Interest.** Interest earned on HUD family self-sufficiency escrow accounts established by Section 544 of the National Affordable Housing Act. (7-1-98)
25. **Native American Payments.** Payments authorized by law made to people of Native American ancestry. (7-1-98)
26. **Educational Income.** Educational income, except that AmeriCorps living allowances, stipends, and AmeriCorps Education Award minus attendance costs are earned income. (7-1-98)
27. **Work Study Income of Student.** College work study income. (7-1-98)
28. **VA Educational Assistance.** VA Educational Assistance. (7-1-98)
29. **Senior Volunteers.** Senior volunteer program payments to individual volunteers under the Domestic Volunteer Services Act of 1979, 42 U.S.C. Sections 4950 through 5085. (7-1-98)
30. **Relocation Assistance.** Relocation assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (7-1-98)
31. **Disaster Relief.** Disaster relief assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster. Comparable disaster assistance provided by states, local governments, and disaster assistance organizations. (7-1-98)
32. **Radiation Exposure Payments.** Payments made to persons under the Radiation Exposure Compensation Act. (7-1-98)
33. **Agent Orange.** Agent Orange settlement payments. (7-1-98)
34. **Spina Bifida.** Spina bifida allowances paid to children of Vietnam veterans. (7-1-99)
35. **Japanese-American Restitution Payments.** Payments by the U.S. Government to Japanese-Americans, their spouses, or parents (or if deceased to their survivors) interned or relocated during World War II. (3-30-01)
36. **Vista Payments.** Volunteers in Service to America (VISTA) payments. (3-30-01)

37. Subsidized Employment. Employment for which the employer receives a subsidy from public funds to offset a portion or all of the wages and costs of employing an individual. This type of employment is a short-term placement, pays prevailing wage, and a specific skill is acquired. The employment is prescribed through a memorandum of agreement with no guarantee of permanent employment for the participant. (5-8-09)

38. Temporary Census Income. All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten (10) year U.S. Census. (1-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

369. CAREER ENHANCEMENT SERVICE PLAN.

All individuals receiving Career Enhancement Assistance must have a written Career Enhancement Service Plan ~~or a Food Stamp Job Search Assistance Program Plan (JSAPP).~~ (5-3-03)(1-1-10)T

370. CAREER ENHANCEMENT ASSISTANCE ELIGIBILITY CRITERIA.

The individual must meet the criteria in Subsections 370.01 through 370.14. (5-3-03)

01. Application and Service Plan. An application form must be completed for Career Enhancement Assistance, unless the family already receives services from the Food Stamp Medicaid, Idaho Child Care or Child Support Services programs. A Career Enhancement service plan must be completed for all eligible individuals. (5-3-03)

02. Verification of Career Enhancement Eligibility. SSN must be verified. Other eligibility criteria are verified at the discretion of the Department. (3-30-01)

03. Eligible Individual. The individual must not have failed, without good cause, to comply with a previous Career Enhancement Service Plan. The individual must be a parent or a caretaker relative with a dependant child in the home, a pregnant woman; or a non-custodial parent legally responsible to provide support for a dependent child who does not reside in the same home. (5-3-03)

04. Need for Work-Related Services. The individual must be in need of work-related services to maintain employment or participate in work programs. The individual must participate in meeting the need to the extent possible. This requires the individual to meet a portion of the need if possible, and to explore other resources available to meet the need. (3-15-02)

05. Income Limit. The family must meet the income limit for only the first month of the service to receive Career Enhancement Assistance. The family's income must be below two hundred percent (200%) of the federal poverty guidelines, or the family must be eligible for Food Stamps, Medicaid or ICCP. For non-custodial parents, the family's income must be below four hundred percent (400%) of the federal poverty guidelines, or the family must be eligible for Food Stamps or Medicaid. (5-3-03)

06. Citizenship and Legal Non-Citizen. The individual must be a citizen or must meet the legal non-citizenship requirements of Section 131. (7-1-99)

07. SSN. An SSN, or proof of application for an SSN, must be provided for the individual. (3-30-01)

08. Residence. The individual must live in the state of Idaho and must not be a resident of another state. (7-1-99)

09. Duplication of Services. Career Enhancement Assistance must not be provided for a need already met by Emergency Assistance under IDAPA 16.06.01, "Rules Governing Family and Children's Services," or by a one-time TAFI cash payment. (5-3-03)

10. TANF Restrictions. The family must not be receiving TANF or TAFI benefits or be serving a TAFI sanction. Participants must not receive Career Enhancement Assistance if they have received five (5) years of TANF benefits. The family must not be receiving TANF Extended Cash Assistance. ~~If the participant received an Emergency Assistance to Needy Families with Children payment within the past twelve (12) months, the participant cannot receive Career Enhancement Assistance.~~ The participant cannot receive Career Enhancement Assistance if they have received it within the past twelve (12) months. ~~(5-3-03)~~(1-1-10)T

11. Controlled Substance Felons. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance can receive Career Enhancement Assistance when they comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. (5-3-03)

12. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony cannot receive Career Enhancement Assistance. (5-3-03)

13. Probation or Parole Violation. Felons who are violating a condition of probation or parole imposed for a federal or state felony cannot receive Career Enhancement Assistance. (5-3-03)

14. Fraud. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid, or SSI, from two (2) or more states at the same time, cannot receive Career Enhancement Assistance for ten (10) years from the date of conviction. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

376. PROHIBITED SUPPORTIVE SERVICE EXPENDITURES.

Supportive Service expenditures must not be authorized for the following types of expenses: (5-3-03)

01. Child Care. Child care of any type. (5-3-03)

02. Medical Services. Medical services, including medical exams. (5-3-03)

03. Vehicles. Motorized vehicle purchases, and down payments, ~~and payment arrearages.~~
~~(5-3-03)~~(1-1-10)T

~~**04. Housing and Utility Costs.** Security deposits, payments on arrearages, current monthly payments, and future monthly payments.~~ (5-3-03)

054. Services for Children. Services or payments for a child, such as counseling, clothing, and school supplies. (5-3-03)

065. Credit Card Accounts. Payments on charge cards. (5-3-03)

076. Household Items. Furniture and major home appliances. (5-3-03)

087. Fines. Any type. (5-3-03)

098. Professional Union or Trade Dues. Any type. (5-3-03)

109. Any Service. Available through another resource. (5-3-03)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0907

NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 56- 202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code.

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

The Division of Medicaid has elected to discontinue its plan to develop a uniform, state-wide consumer-directed services model for all Medicaid programs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Susan Scheuerer at (208) 287-1156.

DATED this 10th day of March, 2010.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
DOCKET NO. 16-0612-1001
NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2010.

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 56-202, Idaho Code.

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

The U.S. Census is conducted every ten years and the census for 2010 requires the Census Bureau to hire employees to conduct this field work. The State of Idaho has received approval from the Centers for Medicare and Medicaid Services to exempt temporary income earned by individuals temporarily working for the Census Bureau on the 2010 Census. The Department is aligning this chapter of rules with other Department rules to exclude the temporary census income from countable income in order to treat income for ICCP the same as other benefit programs. For ICCP participants, the temporary employment income cannot exceed a time period of six months.

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

The temporary rule confers a benefit by allowing ICCP participants to gain job experience through temporary employment with the Census Bureau without jeopardizing benefits.

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:

This program is 100% federally funded and this rulemaking has no anticipated fiscal impact to the state general fund for excluding this temporary income for ICCP participants. The estimated impact to federal funds is \$168,600.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Annie Dalgetty at (208) 334-5686.

DATED this 10th day of March, 2010.

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

THE FOLLOWING IS THE TEMPORARY TEXT FOR DOCKET NO. 16-0612-1001

302. EXCLUDED INCOME.

The following sources of income are not counted as family income. (4-2-08)

01. Earned Income of a Dependent Child. Income earned by a dependent child under age eighteen (18) is not counted, unless the child is a parent who is seeking or receiving child care benefits. (4-2-08)

02. Income Received for Person Not Residing With the Family. Income received on behalf of a person who is not living in the home. (4-2-08)

03. Educational Funds. All educational funds including grants, scholarships, an AmeriCorps Education Award, and federal and state work-study income. (4-2-08)

04. Assistance. Assistance to meet a specific need from other organizations and agencies. (4-2-08)

05. Lump Sum Income. Non-recurring or lump sum income is excluded as income if it is used to pay medical bills resulting from accident or injury, or used to pay funeral or burial costs. When lump sum income, minus exclusions, exceeds current income limits for a family of the same size, the family is not eligible to receive child care benefits. The period of ineligibility is computed by dividing the lump sum payment by the family's monthly income limit. In no case will the period of ineligibility exceed twelve (12) months. (4-2-08)

06. Loans. Loans with written, signed repayment agreements. (4-2-08)

07. TAFI and AABD Benefits. TAFI and AABD benefits. (4-2-08)

08. Foster Care Payments. Foster care payments. (4-2-08)

09. AmeriCorps/VISTA Volunteers. Living allowances, wages and stipends paid to AmeriCorps or VISTA volunteers under 42 U.C.S. 5044, P.L. 93-113, Title IV, Section 404(g) are excluded as income. (4-2-08)

10. Income Tax Refunds and Earned Income Tax Credits. Income tax refunds and earned income tax credits are excluded as income. (4-2-08)

11. Travel Reimbursements. Reimbursements from employers for work-related travel. (4-2-08)

12. Tribal Income. Income received from a tribe for any purpose other than direct wages. (4-2-08)

13. Foster Parents' Income. Income of licensed foster parents is excluded when determining eligibility for a foster child. Income is counted when determining eligibility for the foster parent's own child(ren). (4-2-08)

14. Adoption Assistance. Adoption assistance payments are excluded from income. (4-2-08)

15. Child Support Payments. Court-ordered child support payments made by the parent(s) who receive the child care benefits are deducted from income used to determine eligibility. Both the legal obligation to pay child support and the actual amount paid must be verified. (4-2-08)

16. Temporary Census Income. All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten-year U.S. Census. (1-1-10)T

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-0101-1001

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 the Public Utilities Commission intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 61-601, Idaho Code.

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

WEDNESDAY, APRIL 21, 2010 at 9:00 a.m. (MST)

**PUC Hearing Room (208-334-0300)
472 West Washington Street, Boise, Idaho**

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

The Commission intends to hold an informal public workshop for the purpose of reviewing and discussing the draft rules. During the workshop, interested persons will be permitted to ask questions and give oral presentations. Interested persons may also participate by telephone by calling toll-free (877) 841-9268. The participant code is: 472404. The Commission also invites the submission of written comments as set out 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 Public Utilities Commission is interested in making amendments to its Rules of Procedure, IDAPA 31.01.01. The reasons for the proposed changes include:

- (1) conforming the Commission's testimony and transcript Rules 231 and 286 to changes in the Supreme Court's Appellate Rules;
- (2) change Rule 43 (Representation of Parties) to conform to recent Supreme Court opinions regarding the representation of partnerships, corporations and other entities;
- (3) add Rule 20 to make it easier to determine when telephone companies are no longer conducting business in Idaho; and
- (4) make other changes to improve clarity (Rules 5, 16, 125, 301) and correct citations (Rules 0, 19, 121).

The Commission encourages those interested in participating in the informal workshop to obtain and review a copy of the draft changes to the Rules of Procedure as set out below.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the proposed rules, contact Donald L. Howell, II, Deputy Attorney General, PO Box 83720, Boise, Idaho 83720-0074 (208) 334-0312, don.howell@puc.idaho.gov. The draft changes are also available on the Commission's web site www.puc.idaho.gov by clicking on "File Room" and then "Multi-Utility Cases" then "RUL-U-10-01." Anyone may submit written comments regarding this negotiated rulemaking. All written comments on the draft rules must be directed to the undersigned, and contain the Docket No. 31-0101-1001 and must be delivered on or before April 28, 2010.

DATED this 5th day of March, 2010.

Jean D. Jewell, Commission Secretary
Idaho Public Utilities Commission
472 W. Washington Street (83702-5918)
PO Box 83720, Boise, ID 83720-0074

E-mail: secretary@puc.idaho.gov
Tele: (208) 334-0338
FAX: (208) 334-3762

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1001

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. For those who cannot participate by attending the meetings, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the meeting at one of the following locations. The meeting locations will be connected by telephone. Additional meetings may be scheduled if necessary. For information regarding individual participation by telephone or scheduling of additional meetings, contact the undersigned. Individual requests to participate by telephone must be made by April 19, 2010.

Thursday, April 22, 2010 - 9:30 a.m. to 12:30 p.m. Mountain Time		
Dept. of Environmental Quality 1410 N. Hilton, Conf. Rm. D Boise, Idaho	Dept. of Environmental Quality 444 Hospital Way, Suite 300 Pocatello, Idaho	Dept. of Environmental Quality 2110 Ironwood Parkway Coeur d'Alene, Idaho

Wednesday, May 12, 2010 - 9:30 a.m. to 12:30 p.m. Mountain Time		
Dept. of Environmental Quality 1410 N. Hilton, Conf. Rm. D Boise, Idaho	Dept. of Environmental Quality 444 Hospital Way, Suite 300 Pocatello, Idaho	Dept. of Environmental Quality 2110 Ironwood Parkway Coeur d'Alene, Idaho

PRELIMINARY DRAFT: By April 7, 2010, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/water/58_0102_1001_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208) 373-0418.

DESCRIPTIVE SUMMARY: The Clean Water Act requires Idaho to protect the existing uses of all state waters and to protect high quality waters from degradation that, upon public review, is not necessary and important. This is known as antidegradation. Federal law requires the state to have both an antidegradation policy and methods to implement the policy. Although Idaho has an antidegradation policy in rule, there are no procedures on how to implement the antidegradation policy.

In September 2009, the U.S. Environmental Protection Agency (EPA) was given a 60-day notice of intent to sue by the Idaho Conservation League over EPA's failure, in oversight of Idaho's water quality rules, to require Idaho to adopt an antidegradation implementation procedure. DEQ intends to initiate rulemaking in an effort to forestall the pending legal action against EPA that would force EPA to take action with respect to Idaho's rule. DEQ intends to negotiate a state rule and to develop supporting guidance. If Idaho does not act, EPA will be forced to act, and this may result in a federal rule requiring antidegradation review of state surface waters whenever permits are issued or activities conducted that could reduce surface water quality.

DEQ proposes to revise its Water Quality Standards, IDAPA 58.01.02, to include procedures for implementing efforts to limit degradation of water quality. These rules will likely address:

1. Types of activities subject to antidegradation review;
2. Definition of new or increased discharge;
3. Definition of degradation and information needed to determine degradation;
4. Various levels of protections and how it is decided which level of protection applies;
5. Exemptions to antidegradation review;
6. Waste treatment alternatives analysis to identify least degrading option;
7. Socio-economic analysis needed to justify degradation; and
8. What is needed to document existing sources of pollution are meeting required controls.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Idahoans that recreate in, drink from, or fish Idaho's surface waters and all who discharge pollutants to those same waters may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2010 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2010. If adopted by the Board, the pending rule will be reviewed by the 2011 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

For those who cannot participate by attending the scheduled meetings, written comments may be submitted by mail, fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by April 28, 2010. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 11th day of March, 2010.

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

58.01.17 - RULES FOR THE RECLAMATION AND REUSE OF MUNICIPAL AND INDUSTRIAL WASTEWATER

DOCKET NO. 58-0117-1001

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

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

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the meeting at one of the following locations. The meeting locations will be connected by telephone. Additional meetings may be scheduled if necessary. For information regarding individual participation by telephone or scheduling of additional meetings, contact the undersigned. Individual requests to participate by telephone must be made by April 22, 2010.

Tuesday, April 27, 2010 - 9:30 a.m. to 12:30 p.m. Mountain Time

**Dept. of Environmental Quality
1410 N. Hilton, Conf. Rm. D
Boise, Idaho**

**Dept. of Environmental Quality
444 Hospital Way, Suite 300
Pocatello, Idaho**

**Dept. of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, Idaho**

PRELIMINARY DRAFT: By April 7, 2010, the preliminary draft rule can be obtained at http://www.deq.idaho.gov/rules/waste_water/58_0117_1001_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is necessary because DEQ has determined that Class A and Class B reclaimed wastewater are highly treated effluents and existing nomenclature and requirements may be too strict. Also, this rulemaking will add language to allow for time extension of reuse permits under certain conditions in order to reduce permit processing times. Other anticipated revisions will clarify current rule language, reduce redundancy with other rules, and increase efficiency.

The preliminary draft rule will include the following proposed revisions:

1. Revise/add definitions;
2. Revise Sections 600 and 601 for Class A and Class B effluent to address frequency of total coliform sampling, separation distances, pipe identification and signage, nutrient removal requirements, reliability and redundancy requirements, ground water recharge, and transfer of ownership;
3. Reorganize Section 602 for demonstration of technical, financial, and managerial capacity of new Class A systems;
4. Add items to the minor modifications list;
5. Add language to require closure plans;
6. Add language to clarify the sections that apply to industrial reclaimed water; and
7. Add language to allow for time extensions of reuse permits under certain conditions.

This rulemaking docket may also include other revisions identified during the negotiated rulemaking process as necessary for maintaining consistency within this rule chapter and with other DEQ rule chapters.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Idaho Association of Commerce & Industry, Idaho Council on

Industry & the Environment, Idaho Association of Cities, consulting engineers, existing and potential permittees, and the development community may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2010 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2010. If adopted by the Board, the pending rule will be reviewed by the 2011 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Olga Cuzmanov at olga.cuzmanov@deq.idaho.gov, (208) 373-0449.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by April 29, 2010. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 16th day of February, 2010.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208) 373-0418 / Fax No. (208) 373-0481
paula.wilson@deq.idaho.gov

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

There are no proposed rules being promulgated or published in this month's Bulletin.

Please refer to the Idaho Administrative Bulletin, [April 7, 2010, Volume 10-4](#), for all rulemaking notices and for the text of temporary, proposed and final rules, public hearings and negotiated rulemaking meeting schedules, Governor's executive orders, and agency contact information.

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

To view the Bulletin or Code, or for information on purchasing the Bulletin and other rules publications, visit our website at adm.idaho.gov/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of the Administrative Rules Coordinator, 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
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