

# IDAHO ADMINISTRATIVE BULLETIN

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June 2, 2010 -- Volume 10-6

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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.*

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## **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.*

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## 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**

<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
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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**

<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>
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 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
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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. 2010-02**

**ESTABLISHING THE WORKFORCE DEVELOPMENT COUNCIL FOR PLANNING  
AND OVERSIGHT OF THE STATE'S WORKFORCE DEVELOPMENT SYSTEM**

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*WHEREAS, the economic future of Idaho and the prosperity of its residents depends upon the ability of businesses in Idaho to compete in the world economy; and*

*WHEREAS, a well-educated and highly skilled workforce provides businesses in Idaho with a competitive edge critical for their success; and*

*WHEREAS Idaho is committed to preparing its current and future workforce with the skills necessary for the 21st century; and*

*WHEREAS, empowering business, labor and community leaders to take a more active and strategic role in crafting the state's economic and workforce development policy will enhance the quality and responsiveness of these programs; and*

*WHEREAS, a comprehensive workforce development strategy for Idaho will improve planning and oversight functions; improve the effectiveness, quality and coordination of services designed to maintain a highly skilled workforce; and help provide for the most efficient use of federal, state and local workforce development resources;*

*NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order that:*

1. *The Idaho Workforce Development Council (the "Council") is established in accordance with section 111(e) of the Workforce Investment Act (WIA) of 1998, as amended.*
2. *The Council shall consist of not more than 33 members appointed by the Governor, consistent with federal nomination and composition requirements set forth in section 702 of the Job Training Partnership Act as amended. The Council's membership, shall be as follows:*
  - a. *Representatives of business and industry shall comprise at least 40% of the members;*
  - b. *At least 15% of the members shall be representatives of local public education, postsecondary institutions, and secondary or postsecondary vocational educational institutions;*
  - c. *At least 15% of the members shall be representatives of organized labor based on nominations from recognized state labor federations;*
  - d. *Representatives from the Department of Commerce, Department of Labor, the Department of Health and Welfare, the State Board of Education, the Commission on Aging, the Office of Energy Resources, the Idaho Education Network, and the Superintendent of Public Instruction; and*
  - e. *A representative of a community-based organization.*
3. *The Council will be responsible for advising the Governor and the State Board of Education, as appropriate and at regular intervals, on the following:*
  - a. *Development of a statewide strategy for workforce development programs which encompasses all workforce programs;*
  - b. *Development of the WIA State plan;*

- c. *Development and continuous improvement of services offered under the statewide workforce investment system;*
  - d. *Development of comments at least once annually on the Carl D. Perkins Vocational and applied Technology Education Act;*
  - e. *Development and continuous improvement of comprehensive State performance measures;*
  - f. *Preparation of the annual report to the United States Secretary of Labor as required under section 136 of the WIA;*
  - g. *Development of a statewide employment statistic program;*
  - h. *Development of a plan for comprehensive labor market information; and*
  - i. *Development of applications for an incentive grant under section 503 of the WIA.*
4. *The Council shall also be responsible for:*
- a. *Approval and oversight of the expenditures from the Employment Security Reserve Fund as set forth in Section 72-1347A, Idaho Code;*
  - b. *Development and oversight of procedures, criteria and performance measures for the Workforce Development Training fund established under Section 72-1347B, Idaho Code; and*
  - c. *Such other duties as assigned by the Governor.*
5. *The Council may empanel subcommittees, appointed by the chair. Subcommittee members may include individuals from the general public who have special knowledge and qualifications to be of assistance to the Council.*
6. *The Governor shall name the chair and vice-chair from among the private sector members of the Council.*
7. *The Council shall be jointly staffed by a management team of directors or administrators of state agencies that administer workforce development programs, as designated by the Governor. Funding for the council shall be provided by the agencies staffing the council, which shall agree upon appropriate ratios for the allocation of administrative funding. The Idaho Department of Labor shall have responsibility for providing secretarial and logistical support to the Council.*
8. *The Council's members shall serve at the pleasure of the Governor, and appointments shall be for three-year terms.*



*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 17th day of March 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.*

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

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**BEN YSURSA**  
**SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2010-03**

**ESTABLISHING THE COUNCIL FOR PURCHASES FROM NON-PROFIT BUSINESSES  
THAT SERVE PEOPLE WITH DISABILITIES**

---

*Whereas, it is in the public interest to promote employment opportunities for people with disabilities; and*

*Whereas, the Idaho code provides for the purchase by the agencies of the State of Idaho of goods and services that are produced by people with disabilities participating in private non-private community rehabilitation programs in Idaho;*

*Now, therefore, I, C. L. "Butch" Otter, Governor of the state of Idaho, by virtue of the authority vested in by the constitution and laws of this state do hereby order:*

- 1. The creation of the Council for Purchases From Non-Profit Businesses that Serve People With Disabilities, as follows.*
- 2. The Council's responsibilities shall be:*
  - To promote the purchase by state agencies of goods and services produced by the people with disabilities in a private non-profit community rehabilitation programs under the auspices of Section 67-2319, Idaho Code;*
  - To conduct monitoring and study the implementation of the purchasing program authorized by said section 67-2319;*
  - To designate a central non-profit organization to coordinate the participation of the private non-private community rehabilitation programs in the Idaho purchasing program and develop procedures for such participation;*
  - To advise the Division of Purchasing on the operation of this purchasing program;*
  - To provide an annual report of activities products, services, employment opportunities, and other benefits derived from this program to the Governor, legislature and public by February 1, 2011; and*
  - To encourage transparency the annual report must include all audit and fiscal information to the Governor, legislature, and the public by posting said information on the Idaho Vocational Rehabilitation website.*
- 3. The Governor shall appoint members of the Council comprised of a representative from a private non-profit community rehabilitation program, the Division of Purchasing the private sector, a labor organization, the Division of Vocational Rehabilitation, a disability advocacy organization, and at least one other State Agency. Each member of the council shall serve a term of 3 years. Members of the council shall select a chair from among their number.*
- 4. The council shall be supported administratively by the Division of Vocational Rehabilitation.*
- 5. This executive order shall cease to be effective one year from the date it is signed.*



*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 17th day of March 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.*

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

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*BEN YSURSA*  
*SECRETARY OF STATE*

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2010-04**

**ESTABLISHING THE COUNCIL FOR PURCHASES FROM NON-PROFIT BUSINESSES THAT SERVE  
PEOPLE WITH DISABILITIES - REPEALING AND REPLACING EXECUTIVE ORDER 2010-03**

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*Whereas, it is in the public interest to promote employment opportunities for people with disabilities; and*

*Whereas, the Idaho code provides for the purchase by the agencies of the State of Idaho of goods and services that are produced by people with disabilities participating in private and non-private community rehabilitation programs in Idaho;*

*Now, therefore, I, C.L. "Butch" Otter, Governor of the state of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state do hereby order:*

1. *The creation of the Council for Purchases from Non-Profit Businesses that Serve People With Disabilities.*
2. *The Council's responsibilities shall be:*
  - *To promote the purchase by state agencies of goods and services produced by people with disabilities in private, non-profit community rehabilitation programs under the auspices of Section 67-2319, Idaho Code;*
  - *To monitor and study the implementation of a purchasing program authorized by section 67-2319;*
  - *To designate a central, non-profit organization to coordinate the participation of private and non-private community rehabilitation programs in the state purchasing program and develop procedures for such participation;*
  - *To advise the Division of Purchasing on the operation of this purchasing program;*
  - *To provide an annual report of the activities, products, services, employment opportunities and other benefits derived from this program to the Governor, Legislature and public by February 1, 2011; and*
  - *To encourage transparency, the annual report must include all audit and fiscal information to the Governor, Legislature and public by posting said information on the Idaho Vocational Rehabilitation website.*
3. *The Governor shall appoint members of the Council comprised of a representative from a private, non-profit community rehabilitation program, the Division of Purchasing, the private sector, a labor organization, the Division of Vocational Rehabilitation, a disability advocacy organization, and at least one other State Agency. Each member of the Council shall serve a term of 1 year. Members shall select a chair from among the Council.*
4. *The Council shall be supported administratively by the Division of Vocational Rehabilitation.*
5. *This executive order shall cease to be effective one year from the date it is signed.*





*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 March 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.*

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

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**BEN YSURSA**  
**SECRETARY OF STATE**

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2010-05**

**ESTABLISHING THE GOVERNOR'S COMMISSION ON SERVICE AND VOLUNTEERISM**

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*WHEREAS, there is a compelling need for more civic participation to solve community and state problems and to address many unmet social, environmental, educational, public safety and homeland security needs; and*

*WHEREAS, promoting the capability of Idaho's people, communities and enterprises to work together is vital to the long-term prosperity of this state; and*

*WHEREAS, building and encouraging community collaboration and service is an integral part of the State's future well-being and requires cooperative efforts by the public and private sectors; and*

*WHEREAS, the development of a National Service Program in Idaho requires an administrative vehicle conforming with federal guidelines as set forth in the National and Community Service Trust Act of 1993 as reauthorized and reformed by the Serve America Act of 2009;*

*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 as follows:*

1. *The Governor's Commission on Service and Volunteerism, will be known as Serve Idaho, with a tag line of "The Governor's Commission on Service and Volunteerism."*
2. *Serve Idaho ("the Commission") is hereby established to advise and assist in the development and implementation of a comprehensive, statewide plan for promoting volunteer involvement and citizen participation in Idaho, as well as to serve as the state's liaison to national, state and community organizations which support the intent of the Serve America Act of 2009 ("the Act").*
3. *The Commission will be composed of no fewer than 15 and no more than 25 voting members to be appointed by the Governor in compliance with federal guidelines as described in the Act and as detailed below:*
  - a) *The Commission's membership shall include:*
    - i. *a representative from a community-based agency or organization in the state;*
    - ii. *the head of the State education agency or his designee;*
    - iii. *a representative from local government;*
    - iv. *a representative from local labor organizations;*
    - v. *a representative from the business sector;*
    - vi. *a representative from a national service program;*
    - vii. *a representative from the volunteer sector;*
    - viii. *an individual between the ages of sixteen (16) and twenty-five (25), who is a participant in or supervisor of a service program for school-age youth, a campus-based or national service program;*
    - ix. *an individual with expertise in the educational, training and development needs of youth, particularly disadvantaged youth;*
    - x. *an individual with experience in promoting the involvement of older adults (age 55 and older) in service and volunteerism;*
    - xi. *the Corporation for National and Community Service ("Corporation") will designate one of its employees to serve as an ex-officio member on the Commission;*

- b) *Other members may include; educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental, or public safety services; representatives of Indian tribes; out-of-school youth or at-risk youth; and representatives of programs that are administered or receive assistance under the Domestic Volunteer Service Act.*
  - c) *All members of the Commission shall serve at the pleasure of the Governor.*
  - d) *Not more than twenty-five (25) percent of the Commission members may be employees of state government, though the Governor may appoint additional state agency representatives to sit on the Commission as non-voting ex officio members. Members may not vote on issues affecting organizations for which they have served as a staff person or volunteer at any time during the proceeding twelve (12) months.*
  - e) *Not more than fifty (50) percent of the Commission plus one member may be from the same political party. To the maximum extent practicable, membership of the Commission shall be diverse with respect to race, ethnicity, age, gender, religion and disability characteristics. Members will serve for a term of three years. One-third of the appointments to the first Commission will serve terms of one year; and one-third will serve terms of two years; one-third will serve terms of three years. Vacancies among the members shall be filled by the Governor to serve for the remainder of the unexpired term.*
  - f) *The Commission will elect from among its members a chairperson.*
4. *The Commission will have the following duties and responsibilities:*
- a) *To develop a three-year comprehensive national and community service plan and establish of state priorities;*
  - b) *To administer a competitive process to select national service programs to be included in any application to the Corporation for National and Community Service for funding;*
  - c) *To prepare an application to the Corporation to receive funding and/or educational awards for the programs designated in the Act;*
  - d) *To assist the State education agency in preparing the application for subtitle B school-based service learning programs;*
  - e) *To maintain fiduciary responsibility in the administration of all funds awarded by the Corporation for National and Community Service and other entities and to oversee and monitor the performance and progress of all programs and initiatives. The Department of Labor will serve as Serve Idaho's fiscal agent;*
  - f) *To implement, in conjunction with the Corporation, comprehensive, non-duplicative evaluation and monitoring systems;*
  - g) *To assist in the development of programs pursuant to the Act;*
  - h) *To develop mechanisms for recruitment and placement of people interested in participating in national service programs;*
  - i) *To assist in the provision of health and child care benefits to eligible program participants as specified by regulations pertaining to the Act;*
  - j) *To make recommendations to the Corporation with respect to priorities within the State for programs receiving assistance pursuant to the Act;*

- k) *To coordinate with other state agencies that administer federal financial assistance programs under the Community Service Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate federal financial assistance programs;*
  - l) *To coordinate its functions with any division of the Corporation, that carries out volunteer service programs in the state; and*
  - m) *To provide technical assistance to agencies, corporations and other organizations seeking to develop, strengthen or expand their ability to meet critical needs of the community through service; and*
  - n) *To reach out to and partner with national foundations and other organizations that support the intent of the Act and Serve Idaho; and*
  - o) *Other activities as determined by the Governor to be necessary for the development and implementation of programs which enhance national and community service.*
5. *Serve Idaho shall reside within the Idaho Department of Labor and the Department shall serve as the host agency for administration of the Commission. The Director of the Department shall appoint one (1) Commission Administrator and up to five (5) Commission staff members.*
- a) *The Commission Administrator and all Commission staff members shall be non-classified employees of the Department.*
  - b) *The Commission Administrator shall select and supervise Commission staff members according to the Department's personnel policies and procedures.*
  - c) *Evaluation of Commission staff members will be the responsibility of the Commission Administrator.*
  - d) *Evaluation of the Commission Administrator will be the joint responsibility of the Director and the Commission Chair.*
6. *The Commission and its activities shall be funded from federal, state and other revenues appropriated to Serve Idaho. The Commission is authorized to accept funds, including public and private gifts and in-kind services from other state and private entities.*
7. *The Commission shall meet at least quarterly. Failure to attend at least seventy-five (75) percent of the meetings in any calendar year shall result in removal from the Commission. A quorum shall consist of a simple majority of voting members.*



*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 11th day of May 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.*

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C.L. "BUTCH" OTTER  
GOVERNOR

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BEN YSURSA  
SECRETARY OF STATE

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2010-06**

**AUTHORIZING THE ESTABLISHMENT OF THE IDAHO ABRAHAM LINCOLN BICENTENNIAL  
COMMISSION - REPEALING AND REPLACING EXECUTIVE ORDER 2006-17**

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*WHEREAS, the 200th anniversary of the birth of President Abraham Lincoln will be celebrated on February 12, 2009; and*

*WHEREAS, President Abraham Lincoln was personally and directly involved in the creation of the Idaho Territory in 1863 by helping select the name "Idaho", lobbying Congress for the passage of our territorial bill, signing the legislation into law in the U.S. Capitol, and appointing our first territorial officers; and*

*WHEREAS, political relations with the Idaho Territory remained important to Abraham Lincoln during his presidential administration since he mentioned the Idaho Territory in his 1863 and 1864 State of the Union Addresses, several times filled vacancies in our territorial offices by appointing successors and invited the delegation from the Idaho Territory to attend Ford's Theatre on the night of his assassination, intending to make additional Idaho appointments the next week; and*

*WHEREAS, the United States of America and the States of Illinois, Indiana, Kentucky, Rhode Island and New York have each established Bicentennial Commissions to create and conduct appropriate recognition celebrations; and*

*WHEREAS, Abraham Lincoln was among the greatest Presidents of the United States embodying equality, freedom and opportunity for all and leading the Nation through the Civil War to preserve the Union; and*

*WHEREAS, a recognition and celebration of the birth of Abraham Lincoln and his special relationship to Idaho will serve important ceremonial and educational functions for the citizens of our State and the Nation.*

*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. There shall be established an Idaho Abraham Lincoln Bicentennial Commission.*
- 2. The purpose of the Commission shall be to:*
  - a. Plan for a statewide recognition and celebration of the 200th anniversary of Lincoln's birth;*
  - b. To educate the people of Idaho and the Nation about the unique relationship between the Idaho Territory and the sixteenth President of the United States;*
  - c. To encourage and coordinate the activities of local historical societies, civic groups, public schools, institutions of higher education, chambers of commerce and other entities to celebrate the Lincoln Bicentennial;*
  - d. To coordinate and establish a liaison with the Abraham Lincoln Bicentennial Commission of the United States and its Advisory Committee and those commissions established by other states;*
  - e. To seek volunteer assistance, monetary donations, public and private grants, and legislative appropriations in support of its mission;*
  - f. To support research, publications, historical analysis and exploration, the acquisition and preservation of artifacts and displays appropriate to the presentation and explanation of the career and contributions of Abraham Lincoln to the United States and Idaho;*
  - g. To issue such interim and final reports and periodicals as shall advance the Commission's work.*

3. *The membership of the Commission shall be twenty-three (23) individuals serving through calendar year 2009. The membership shall be as follows:*
  - a. *the Governor or a designee;*
  - b. *the Lieutenant Governor or a designee;*
  - c. *the Secretary of State or a designee;*
  - d. *the Attorney General or a designee;*
  - e. *the Superintendent of Public Instruction or a designee;*
  - f. *the State Treasurer or a designee;*
  - g. *the State Controller or a designee;*
  - h. *a member of the Idaho State Senate, designated by the President Pro Tem;*
  - i. *a member of the Idaho House of Representatives, designated by the Speaker;*
  - j. *the Chief Justice of the Idaho Supreme Court or a designee;*
  - k. *the Director of the Idaho State Historical Society;*
  - l. *five individuals appointed by the Governor from the leaders or active members of local or regional historical societies from throughout the State, including one from Lewiston, the original territorial capitol;*
  - m. *the Director of the Idaho Department of Commerce and Labor;*
  - n. *the Director of the Idaho Human Rights Commission;*
  - o. *five individuals appointed by the Governor who have demonstrated dedication to the study or education of historical matters and have substantial knowledge of Abraham Lincoln and Idaho history.*
4. *Vacancies on the Commission shall be filled by the Governor.*
5. *The Commission may recommend additional members to the Governor, as it deems appropriate and may establish sub-committees consistent with the needs of the Commission. The Governor will select the Chair of the Commission. The Commission shall meet at least twice during calendar year 2006 as determined by the Chair, and as frequently thereafter as the role and mission of the Commission shall require.*
6. *The Commission members shall serve without compensation or reimbursement for expenses, including related travel and per diem to attend Commission meetings.*
7. *The Commission shall receive administrative and technical staff support from the Idaho State Historical Society or such other agencies as shall be designated by the Governor.*

*This Executive Order shall cease to be effective December 31, 2010.*



*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 11th day of May 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.*

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C.L. "BUTCH" OTTER  
GOVERNOR

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BEN YSURSA  
SECRETARY OF STATE

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2010-07**

**ESTABLISHING THE IDAHO GEOSPATIAL COUNCIL**

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*WHEREAS, government agencies and private industries have developed powerful computer systems designed to process and analyze map and other information collectively called geospatial information; and*

*WHEREAS, these systems, referred to as Geographic Information Systems (GIS), significantly increase efficiency for conducting land, water, demographic, social, health and other management activities, and are linked as components of Idaho's information management activities; and*

*WHEREAS, geospatial information produced and maintained by organizations provide a valuable information infrastructure for public and private entities; and*

*WHEREAS, GIS assists all levels of government in carrying out their mandated responsibilities more efficiently, with better services to citizens and as a valuable tool for scientific investigation, emergency response, resource management and many other areas; and*

*WHEREAS, it is important to provide channels of communication and cooperation among agencies of the State of Idaho, federal agencies, local and tribal governments, private organizations, educational institutions and the citizens of Idaho; and*

*WHEREAS, there is a need to facilitate and promote the cooperation and coordination of programs, policies, products and resources using GIS to maximize opportunities and minimize inefficiencies; and*

*WHEREAS, there is a need to develop and implement policies, standards, and guidelines for producing and sharing geospatial information; and*

*WHEREAS, there is a need to support the ongoing development of technical infrastructure, including a clearinghouse/data portal in order to foster the sharing and use of geospatial information; and*

*WHEREAS, there is a need to promote best practices and raise awareness of the potential inherent in geospatial information; and*

*WHEREAS, the Idaho Legislature annually appropriates a significant amount of State funds for agency GIS activities that benefit from coordination; and*

*WHEREAS, GIS activities and implementation have a long-term economic benefit to the citizens of Idaho;*

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

- 1. The Idaho Geospatial Committee is now called the Idaho Geospatial Council.*
- 2. the Idaho Geospatial Council represents the Idaho geospatial community and shall be composed of representatives with knowledge and interest in geospatial technologies from all stakeholder groups, including state government, federal government, regional government, county government, municipal government, tribal government, higher education institutions, public utilities, private companies, and the public at large.*
- 3. a decision-making and steering body called the Idaho Geospatial Council Executive Committee (Executive Committee) shall be formed. Standing members of the Executive Committee shall be Idaho's Geospatial Information Officer, the USGS Federal Liaison, the Clearinghouse/Portal Manager, and the GIS Training and Research Center Manager. The Council shall elect twelve (12)*

*additional members to the Executive Committee from Council membership, forming a committee of sixteen (16) members. The 12 additional members elected shall provide a balanced representation of stakeholder groups as specified in the bylaws. The Chair shall be elected from among the Executive Committee members as defined in the bylaws. Executive Committee membership will be approved by the Information Technology Resource Management Council.*

4. *the purpose of the Idaho Geospatial Council acting through the Executive Committee is to provide policy-level direction and promote efficient and effective use of resources for matters related to geospatial Information. To that end they shall:
  - a. *promote cooperation among all stakeholder groups in addressing geographic data and information needs and services in Idaho;*
  - b. *review priorities for statewide geospatial Information needs and assist in the development of projects, plans, policies, standards, priorities and guidelines for geographic information;*
  - c. *facilitate cooperative and contract arrangements to develop and maintain high-priority geospatial databases, applications, and services, collectively referred to as the Idaho Spatial Data Infrastructure (ISDI);*
  - d. *promote and seek financial support for ISDI as described and planned in the Strategic and Business Plans for Development and Deployment of Idaho's Spatial Data Infrastructure (March 2009); and*
  - e. *provide recommendations to ITRMC, the Governor and the Legislature, when appropriate, concerning issues related to geospatial Information in Idaho.**
5. *The Idaho Geospatial Council Executive Committee will appoint subcommittees consistent with the needs of the Council.*
6. *The Idaho Geospatial Council and Executive Committee will each meet at least twice a year and all meetings are open to all interested parties.*
7. *The Idaho Geospatial Council Executive Committee shall receive administrative support from the Information Technology Resource Management Council staff.*
8. *The Idaho Geospatial Council Executive Committee shall prepare and submit a report annually to the Information Technology Resource Management Council describing the Council's activities and achievements of the previous year. Additionally, the report shall include bylaws for this Council and provide a progress report on the Idaho Spatial Data Infrastructure initiative, as set forth in the Strategic and Business Plans for Development and Deployment of Idaho's Spatial Data Infrastructure (March 2009).*

*This Executive Order shall cease to be effective four years from the date it is effective.*



*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 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



**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2010-08**

**AMENDING AND RESTATING EXECUTIVE ORDER NO. 2009-15 - CONTINUING A SYSTEM  
FOR ALLOCATING VOLUME CAP FOR RECOVERY ZONE BONDS IN THE STATE  
CONSISTENT WITH THE PROVISIONS OF THE U.S. INTERNAL REVENUE CODE OF 1986**

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WHEREAS, Sections 1400U-1 through U-3 of the U.S. Internal Revenue Code of 1986 (the "Code") provide that until January 1, 2011 certain bonds can be issued for Projects in Recovery Zones, and subjects such recovery zone bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, the Code, as amended, provides a formula for allocations of such Volume Cap, and in order to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities, it is necessary and desirable to issue this Executive Order; and

WHEREAS, on July 30, 2009, Executive Order No. 2009-15 (the "Prior Executive Order") was issued providing for the said Volume Cap allocations and now it is desirable to amend and restate the Prior Executive Order to include provisions for deemed waiver by eligible counties and the City of Boise in Idaho (the "Municipalities") of the allocations of Volume Cap back to the Idaho Department of Commerce for further allocation for eligible projects in the State.

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

Section 1. As used in this Executive Order:

- (1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order.
- (2) "Bonds" means the Recovery Zone Bonds for which an allocation of the Volume Cap is required by the Code.
- (3) "Code" means the Internal Revenue Code of 1986, as amended by the American Recovery and Reinvestment Act of 2009, and any related regulations including without limitation the Notice, all as may be amended or supplemented.
- (4) "Department" means the Department of Commerce of the State.
- (5) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.
- (6) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.
- (7) "Initial Allocation" means one of the initial allocations established under Section 4(1) hereof.
- (8) "Issuing Authority" means:
  - (a) any county, city or port district;
  - (b) any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;

- (c) *the Idaho Housing and Finance Association;*
  - (d) *the State; or*
  - (e) *any other entity authorized to issue Bonds in the State.*
- (9) *“Municipality” means a county or city receiving an Initial Allocation.*
- (10) *“Notice” means IRS Notice 2009-50, as amended, revised or supplemented.*
- (11) *“Program” means the program to be financed in whole or in part with the proceeds of the sale of Bonds.*
- (12) *“Project” means the facility to be financed in whole or in part with the proceeds of sale of Bonds.*
- (13) *“Recovery Zone” means an area of the State as determined in accordance with the Code and Notice.*
- (14) *“Recovery Zone Bonds” means Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds as provided in the Code and Notice.*
- (15) *“Recovery Zone Economic Development Bonds” means bonds issued in accordance with the Code and the Notice for qualified economic development purposes for state or local government facilities as further provided in the Code and the Notice.*
- (16) *“Recovery Zone Facility Bonds” means bonds issued in accordance with Code and the Notice for Recovery Zone property as further provided in the Code and Notice.*
- (17) *“State” means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds under State law.*
- (18) *“Subsequent State Allocation” means an allocation of Volume Cap by the Department acting for the State of all or a portion of Initial Allocations returned to the State by waiver or deemed notice under the Code and Notice.*
- (19) *“Ultimate Beneficiary” means the ultimate beneficiary of the Volume Cap as provided in the Code and Notice.*
- (20) *“Volume Cap” means the volume cap for Recovery Zone Bonds for the State as computed under Sections 1400U-1 through U-3 of the Code, the Notice and related regulations.*

*Section 2. The Volume Cap is allocated in accordance with the procedures set forth in this Executive Order. An Initial Allocation of the Volume Cap which has been waived or deemed waived and thereby returned to the State in accordance with the Code and/or Notice may be obtained by submitting an application to the Director in accordance with Section 3, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of such allocation in accordance with Section 4, as appropriate. The Department may seek and obtain waivers of Initial Allocations from applicable counties or municipalities that choose not to make their own allocations under the Code and Notice and allow the Department to make Subsequent State Allocations hereunder. Such waivers may include conditions regarding the Subsequent State Allocations.*

*Section 3.*

- (1) *In the event an Initial Allocation is waived, deemed waived or returned in accordance with the Code and/or Notice, any Issuing Authority or Ultimate Beneficiary shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:*
- (a) *the name of the Issuing Authority or Ultimate Beneficiary;*

- (b) *the mailing address of the Issuing Authority or Ultimate Beneficiary;*
  - (c) *the tax identification number of the Issuing Authority or Ultimate Beneficiary;*
  - (d) *the name, title and office telephone number of the official of the Issuing Authority or Ultimate Beneficiary to whom notices should be sent and from whom information can be obtained;*
  - (e) *the principal amount of Bonds proposed to be issued for which an application for an allocation of the Volume Cap is requested;*
  - (f) *the nature, the purpose and the specific location of the Project or the type of Program;*
  - (g) *the initial owner or user of the Project, if other than the Issuing Authority or Ultimate Beneficiary;*
  - (h) *a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the Project;*
  - (i) *with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur;*
  - (j) *the name, address, and telephone number of all parties to the transaction;*
  - (k) *that the Bonds are expected to be issued under the Code and Notice and including a copy of a letter from the purchaser or underwriter of the Bonds confirming the expected issuance date;*
  - (l) *that the Project or Program is located in a Recovery Zone and that the Project will be accomplished in accordance with the Code and Notice;*
  - (m) *such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its Program or Project in the State, together with any information which demonstrates how its Program or Project will effectively utilize and efficiently distribute resources throughout the State; and*
  - (n) *any other information or attachments reasonably required by the Director.*
- (2) *The Director shall:*
- (a) *establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1), and*
  - (b) *make such forms available to the public upon request.*
- (3) *The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority or Ultimate Beneficiary that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.*

**Section 4.**

- (1) *Allocations of Volume Cap shall initially be made to eligible counties and large municipalities in the amounts as set forth in section 12 below which are the amounts determined by the Internal Revenue Service under the Notice (collectively, the "Initial Allocations") to be further allocated by said entities as provided in the Code and Notice. Such Initial Allocation shall be permanent unless such Initial Allocation is returned to the State because it is waived or deemed waived or otherwise as provided in the Code and Notice:*

(a) *In accordance with the Code and Notice, the State's national allocation of Volume Cap Allocation Dollars is hereby allocated to Recovery Zones throughout the State, as Initial Allocations as provided in section 12 below;*

(b) *The above Initial Allocations shall be in effect until the same are waived or deemed waived or otherwise returned to the State Department of Commerce in accordance with the Code and Notice. If an Initial Allocation is not allocated to an Ultimate Beneficiary or returned to the Department by July 1, 2010 such Initial Allocation shall be deemed waived to the Department as of said date. Not later than August 1, 2010, each Municipality shall notify the Department of any allocations to Ultimate Beneficiaries under its Initial Allocation by transmitting a copy of such Municipality's Certificate of Allocation for such Ultimate Beneficiary. Each Ultimate Beneficiary of a Certificate of Allocation shall furnish to the Municipality and to the Department a copy of the IRS reporting form for the Bonds to be issued under the Certificate of Allocation. In the event that Bonds are not issued pursuant to such Certificate of Allocation, the Municipality shall so notify the Department and such amount of Bonds shall be deemed waived back to the Department.*

(c) *The Director shall track the use of the Initial Allocations as described in section 4(1)(b) above.*

(d) *Thereafter, Subsequent State Allocations shall be made based first on need, economic impact and efficient distribution of resources as determined by the Department and within that determination, and then in the chronological order in which they are received as provided in Section 3, subject to any conditions which may be set forth in any voluntary waiver by the applicable county or municipality of an Initial Allocation.*

(2) *Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for a Subsequent State allocation of the Volume Cap under Section 3 above, the Director shall, if the application is in satisfactory order, the Director will make the requested allocation in the amount so requested, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director in accordance with the preceding sentence, shall be issued by the Director, first based on a determination of need, economic impact and efficient use of resources as determined by the Department, and then in the chronological order in which completed applications are received subject to any conditions which may be set forth in the waiver of Initial Allocation executed by the applicable county or municipality.*

(3) *Every allocation of the Volume Cap by application under Section 3 shall remain effective until, and including, the earlier of:*

(a) *a date to be determined by the Director but not to exceed 180 days after the date on which such allocation was made,*

(b) *12:00 o'clock midnight on December 31, 2010, or*

(c) *the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 6(2). Any allocation for which Bonds are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds.*

(4) *No application submitted by an Issuing Authority or Ultimate Beneficiary to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the first based on need, economic impact and efficient use of resources as determined by the Department and then in chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.*

(5) *The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director.*

(6) *In the event that the Director is uncertain whether an application meets the requirements set forth in this Executive Order or the Code and/or Notice above, he may defer action on such application until he has received another application(s) and then determine which application best meets such criteria.*

Section 5. *No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority or Ultimate Beneficiary to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority or Ultimate Beneficiary to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.*

Section 6.

(1) *After the effective date of this Executive Order, any Issuing Authority issuing Bonds under a Subsequent State Allocation without a certificate or allocation of the Director required to be applied for pursuant to Section 3, or any Issuing Authority issuing Bonds under a Subsequent State Allocation after the expiration of an allocation under Section 4, as appropriate, is not entitled to any Subsequent State Allocation of the Volume Cap for such Bonds, and any Issuing Authority issuing Bonds in excess of the Subsequent State Allocation set forth in the certificate of allocation is not entitled to any Subsequent State Allocation of the Volume Cap for such excess.*

(2) *Each Issuing Authority shall:*

(a) *advise the Director on or before the earlier of the fifteenth day after the issuance of any Bonds or the fifteenth day after December 31, 2010, of the principal amount of Bonds issued under the Subsequent State Allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds, or*

(b) *if all or a stated portion of such Bonds will not be issued, shall advise the Director in writing, on or before the earlier of*

(i) *the fifteenth day after the earlier of*

(A) *the final decision not to issue all or a stated portion of such Bonds or*

(B) *the expiration of the Subsequent State Allocation, or*

(ii) *December 31, 2010.*

(3) *Each Issuing Authority and Ultimate Beneficiary shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority or Ultimate Beneficiary obtains a Subsequent State Allocation of a portion of the Volume Cap for a particular Project or Program from the Director under Section 3, but does not issue its Bonds within the prescribed time limit, or issues a lesser amount of Bonds within the prescribed time limit, such Issuing Authority or Ultimate Beneficiary may again submit an application with respect to the proposed Bonds or portion of such Bonds not issued for such Project or Program as provided in Section 3, as appropriate. Such application shall be treated as a new application.*

Section 7. *In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:*

(1) *maintain a record of all applications filed by Issuing Authorities or Ultimate Beneficiaries under Section 3 and all certificates of allocation issued;*

- (2) maintain a record of all Bonds issued by Issuing Authorities;
- (3) maintain a record of all information filed by Issuing Authorities or Ultimate Beneficiaries under this Executive Order;
- (4) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap allocated and any amounts available or at any time remaining available, for allocation under this Executive Order;
- (5) the Director shall serve as the State official designated under State law to make any allocation including without limitation Subsequent State Allocations or certifications required to be made under the Code; and
- (6) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 8. If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid, inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with this Executive Order.

Section 9. The State pledges and agrees with the owners of any Bonds to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds.

Section 10. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 11. The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds providing a system for the implementation and administration of the formula provided under the Code for allocating the Volume Cap.

Section 12. Volume Cap Amounts:

Area	Residual	Recovery Zone Economic Development Bond	Recovery Zone Facility Bond
Ada County, ID	Residual	19,381,000	29,071,000
Adams County, ID		933,000	1,400,000
Bannock County, ID		3,902,000	5,854,000
Benewah County, ID		455,000	682,000
Blaine County, ID		52,000	77,000
Boise City city, ID		24,902,000	37,352,000
Boise County, ID		797,000	1,196,000
Bonner County, ID		230,000	345,000
Bonneville County, ID		2,894,000	4,341,000
Boundary County, ID		145,000	218,000
Butte County, ID		131,000	197,000

Area	Residual	Recovery Zone Economic Development Bond	Recovery Zone Facility Bond
Camas County, ID		5,000	7,000
Canyon County, ID		18,542,000	27,811,000
Caribou County, ID		145,000	218,000
Cassia County, ID		441,000	661,000
Clark County, ID		47,000	70,000
Clearwater County, ID		38,000	56,000
Elmore County, ID		1,210,000	1,815,000
Franklin County, ID		553,000	830,000
Gem County, ID		1,581,000	2,371,000
Idaho County, ID		891,000	1,337,000
Jefferson County, ID		638,000	957,000
Kootenai County, ID		4,695,000	7,043,000
Lemhi County, ID		1,130,000	1,696,000
Lewis County, ID		220,000	331,000
Lincoln County, ID		469,000	704,000
Minidoka County, ID		408,000	612,000
Nez Perce County, ID		1,656,000	2,484,000
Oneida County, ID		80,000	120,000
Owyhee County, ID		1,018,000	1,527,000
Payette County, ID		750,000	1,126,000
Power County, ID		352,000	528,000
Valley County, ID		910,000	1,365,000
Washington County, ID		399,000	598,000



*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 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 02 - DEPARTMENT OF AGRICULTURE**

### **02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS**

**DOCKET NO. 02-0421-1001**

#### **NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is April 15, 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 25-207, Idaho Code.

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

The USDA-APHIS has issued a Federal Order suspending enforcement of 9 CFR Section 77.10 in Modified Accredited Advanced (MAA) States or Zones relative to tuberculosis in cattle. As a result there will be no federal testing requirement for movement of cattle or bison from MAA states or zones. USDA-APHIS intends to promulgate new rules for tuberculosis testing of cattle originating in MAA states or zones. USDA-APHIS anticipates the rulemaking process will take at least two years to complete.

IDAPA 02.04.21, "Rules Governing Importation of Animals," currently has tuberculosis testing requirements for cattle leaving MAA states or zones that mirror the federal requirements in 9 CFR Section 77.10. IDAPA 02.04.21.240.03 requires that cattle over 15 months of age be tested for tuberculosis prior to import into Idaho from an MAA state or zone. Due to USDA-APHIS suspending enforcement of federal regulations, Idaho is one of only two states that require tuberculosis testing of this class of cattle for import purposes. This temporary rule will make Idaho's import rules consistent with the USDA-APHIS Federal Order.

**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 reason:

The temporary rule will benefit persons importing cattle into Idaho because the federal and state tuberculosis testing requirements for this class of cattle will be the same.

**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 Dr. Bill Barton, Administrator/State Veterinarian at (208) 332-8540.

DATED this 6th day of May, 2010.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

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**THE FOLLOWING IS THE TEMPORARY RULE TEXT FOR DOCKET NO. 02-0421-1001**



**240. TUBERCULOSIS TEST REQUIREMENTS.**

Cattle and domestic bison may enter the state of Idaho provided: (5-3-03)

**01. Tuberculosis Accredited Free State or Zone.** Cattle and bison that originate from a bovine tuberculosis accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, in which there are no animals or herds infected with or exposed to tuberculosis may be imported upon meeting the following requirements: (4-11-06)

**a.** Cattle of beef breeds may enter the state without a tuberculosis test. (4-11-06)

**b.** All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, shall be officially identified and tested negative for tuberculosis, within sixty (60) days prior to entry into the state of Idaho except intact male and female cattle of dairy breeds consigned directly to a feedlot approved for finish feeding of cattle for slaughter only relative to tuberculosis may enter by permit without a tuberculosis test provided the cattle have been individually identified on a certificate of veterinary inspection. (4-2-08)

**c.** All sexually intact male and female cattle, six (6) months of age and older, of dairy breeds, may enter Idaho for the purpose of participating in shows or exhibitions, by permit, without a tuberculosis test. (4-11-06)

**02. Tuberculosis Accredited Free Herd.** Cattle and bison that originate in an accredited tuberculosis free herd in either an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and for which both an accredited herd number and date of last tuberculosis test are shown on the certificate of veterinary inspection, may enter the state without a tuberculosis test. (5-3-03)

**03. Tuberculosis Modified Accredited Advanced State or Zone.** Cattle and bison that originate from a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, and are not known to be infected with or exposed to tuberculosis, may be imported upon meeting the following requirements: (5-3-03)

**a.** Steers, spayed heifers, and intact heifers of beef breeds that are less than fifteen (15) months of age, which are consigned for grazing, or steers, spayed heifers, and intact heifers of beef breeds that are consigned directly to a feedlot approved for finish feeding of cattle or bison relative to tuberculosis, may enter without individual identification or testing for tuberculosis; and (3-20-04)

**b.** All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned for immediate slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (3-20-04)

**c.** Tuberculosis testing requirements in Subsection 240.03 may be waived, with administrator approval, for feeder animals of beef breeds and bison originating from a modified accredited advanced state or zone previously classified as accredited free if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous twelve (12) months and the herd of origin is not under hold order, quarantine or epidemiological investigation for tuberculosis. (4-15-10)T

**04. Tuberculosis Modified Accredited State or Zone.** Cattle and bison that originate in a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

**a.** The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that have been individually identified and classified negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

**b.** The cattle and bison are consigned for immediate slaughter at an approved slaughter establishment; or (5-3-03)

**c.** The cattle and bison have been subjected to two (2) official tuberculosis tests, the results of which are negative, the first test shall be a whole herd test, the second test shall be at least sixty (60) days, and no more than six (6) months, after the whole herd test and shall be not more than sixty (60) days prior to entry into Idaho. (5-3-03)

**05. Tuberculosis Accredited Preparatory State or Zone.** Cattle and bison that originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, and which are not known to be infected with or exposed to tuberculosis, may enter Idaho under one (1) of the following conditions: (5-3-03)

**a.** The cattle and bison are steers, spayed heifers or intact heifers which are consigned directly to a feedlot approved for finish feeding of cattle and bison relative to tuberculosis and that are individually identified and have been classified negative on two (2) official tuberculosis tests conducted at least sixty (60) days, but not more than six (6) months apart, with the second test being conducted not more than sixty (60) days prior to entry into Idaho; or (5-3-03)

**b.** The cattle and bison originate in a tuberculosis accredited free herd, are individually identified, and have been tested negative on an official tuberculosis test within sixty (60) days prior to entry into Idaho; or (5-3-03)

**c.** The cattle and bison are individually identified, are from a herd that has been subjected to a complete tuberculosis herd test with negative results within the past twelve (12) months and the animals being imported have been subjected to two (2) additional official tuberculosis tests with negative results, conducted not less than sixty (60) days apart with the second test being conducted not more than sixty (60) days prior to the date of importation. (5-3-03)

**06. Tuberculosis Non-Accredited State or Zone.** Cattle and bison that originate in a non-accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, may not enter Idaho except by special permit issued by the administrator and under the conditions specified by the administrator at the time the permit is issued. (5-3-03)

**07. Rodeo Stock.** All cattle imported into Idaho for rodeo or timed events must have been tested negative for bovine tuberculosis within twelve (12) months prior to importation into Idaho. (4-2-08)

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

### DOCKET NO. 08-0202-1001

#### 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 June 16, 2010.

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

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

This change requires the attainment of a subject area endorsement for all individuals seeking the Standard Elementary Certificate on or after July 1, 2013.

Currently, there is no requirement for a K-8th grade certified teacher to hold any type of endorsement or have content competency in another subject area outside of the Elementary core content. In most cases, this means that a K-8th grade certified teacher can only teach a self-contained elementary school class through 6th grade, which contradicts the purpose for Idaho continuing to support the K-8th grade certificate. Under the current federal requirements, holding only an elementary certificate does not give rural school districts the flexibility for which the K-8th grade certificate was designed.

Also, in hard to fill positions, there are often not enough 6th-12th grade certificated teachers to meet the needs of middle schools. Unfortunately, at this time K-8th grade certified teachers are not properly prepared to teach single subject classrooms. This change will assist districts in moving teachers between elementary and middle school as necessary by requiring an area of expertise that can be used in the middle grades. It will also provide newly prepared teachers with more options and greater flexibility.

**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 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 and received unanimous approval.

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

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 June 23, 2010.

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; fax (208) 334-2228

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 08-0202-1001

**018. STANDARD ELEMENTARY CERTIFICATE.**

A Standard Elementary Certificate makes an individual eligible to teach grades Kindergarten (K) through eight (8), and may be issued to any person who has a bachelor's degree from an accredited college or university and who meets the following requirements: (3-16-04)

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

**02. Professional Education Requirements.** (3-30-07)

**a.** A minimum of twenty-four (24) semester credit hours, or thirty-six (36) quarter credit hours, in the philosophical, psychological, and methodological foundations and in the professional subject matter of elementary education, which shall include at least six (6) semester credit hours, or nine (9) quarter credit hours, in developmental reading and its application to the content area. (3-16-04)

**b.** At least six (6) semester credit hours, or nine (9) quarter credit hours, of elementary student teaching or two (2) years of satisfactory experience as a teacher in grades K-8. (3-16-04)

**03. Additional Requirements.** An institutional recommendation from an accredited college or university or verification of two (2) years of teaching experience in grades Kindergarten (K) through eight (8). (3-16-04)

**04. ~~Ninth-Grade Area of Endorsement.~~ All individuals with a Standard Elementary Certificate shall complete the requirements for a subject area endorsement as outlined under requirements for a Standard Secondary Certificate. An endorsement allowing teaching of that subject through grade nine (9) may or a K-12 endorsement shall be added to the Standard Elementary Certificate. Individuals with Standard Elementary Certificates issued prior to July 1, 2013 are not subject to this rule.** (3-16-04)( )

**05. Proficiency.** Proficiency in areas noted above is measured by completion of the credit hour requirements provided herein. Additionally, each candidate shall meet or exceed the state qualifying score on approved elementary content area and pedagogy assessments. (3-16-04)

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

**10.01.01 - RULES OF PROCEDURE**

**DOCKET NO. 10-0101-1001**

**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 propose 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:

**Tuesday, June 15, 2010 - 9:00 a.m.**

**Conference Room 302  
Len B. Jordan Building  
650 W. State Street  
Boise, Idaho**

**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 changes that would (1) allow initial licensing as a professional engineer through use of the Structural Engineer examination without having to first be licensed as a professional engineer in another discipline, and (2) allow the details of investigations to be released to law enforcement agencies and licensing entities in other jurisdictions.

**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 23, 2010.

DATED this 22th day of April, 2010.

David L. Curtis, P.E.  
Executive Director  
Board of Professional Engineers and 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. 10-0102-1001**

**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 propose 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:

**Tuesday, June 15, 2010 - 9:00 a.m.**

**Conference Room 302  
Len B. Jordan Building  
650 W. State Street  
Boise, Idaho**

**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:

Consider amendments that would (1) exempt licensees from the requirement to notify another licensee of the discovery of an error if the discoverer is retained by an attorney, in which case the Idaho Court Rules would apply, and (2) require that licensees be prompt in statements and written responses to the Board.

**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 23, 2010.

DATED this 22th day of April, 2010.

David L. Curtis, P.E.  
Executive Director  
Board of Professional Engineers and 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**

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

**DOCKET NO. 16-0305-1001**

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

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

**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 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 16, 2010.

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 2010 Legislature passed House Bill 723, setting the Department's appropriations for State Fiscal Year 2011. The Department needs to reduce general fund expenditures and plans to do so by making the following rule changes:

1. Cap the amount of AABD cash payments for all living arrangements, which include: Room and Board, Semi-Independent Group Residential Facility (SIGRF), Assisted Living or Residential Care Facility (RALF), Certified Family Home (CFH), and Essential Persons who provide services in the participant's own home;
2. Change rules to limit AABD cash only to participants who receive SSI payments; and
3. Align benefits for the DD Waiver participants with the A&D Waiver participants living in CFHs and RALFs.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary for compliance with deadlines in amendments to governing law.

**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: NA

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

Total cost savings to the state general fund for SFY 2011 for changes made to AABD cash payment program is anticipated to be \$1,101,900 over a 12-month period.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to meet the appropriations set for SFY 2011 by the 2010 Legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Susie Cummins at (208) 732-1419.

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 23, 2010.

DATED this 4th day of May, 2010.

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  
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THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 16-0305-1001

106. ~~QUALIFIED NON-CITIZEN ELIGIBILITY REQUIREMENTS FOR AABD CASH (RESERVED).~~

~~01. Eligibility Requirements for AABD Cash Beginning March 1, 2009. Beginning with applications dated March 1, 2009, to be eligible for AABD cash assistance, a qualified non-citizen must meet the requirements in Section 105 of these rules and must meet the eligibility requirements for Supplemental Security Income (SSI) payments. (3-29-10)~~

~~02. Receiving AABD Cash Prior to March 1, 2009. A qualified non-citizen who was eligible for and received an AABD cash payment for February 2009, but does not meet the SSI eligibility requirements, will continue to receive an un-capped cash benefit as long as all other eligibility requirements are met until one (1) of the following occurs: (3-29-10)~~

~~a. A break in the qualified non-citizen's AABD cash payment occurs because he failed to complete a redetermination for benefits; or (3-29-10)~~

~~b. The qualified non-citizen has not become a naturalized citizen and two (2) years have passed from March 1, 2009, and he does not meet the eligibility requirements for SSI payments. (3-29-10)~~

(BREAK IN CONTINUITY OF SECTIONS)

255. ~~RETROACTIVE SSI AND AABD RSDI BENEFITS.~~

~~Retroactive SSI and AABD RSDI benefits are issued after the calendar month for which they are paid. Retroactive AABD, SSI and RSDI benefits are excluded from resources for nine (9) calendar months after the month they are received. Interest earned by excluded funds is counted as income. (3-29-10)(7-1-10)T~~

(BREAK IN CONTINUITY OF SECTIONS)

500. ~~FINANCIAL NEED AND AABD CASH AMOUNT.~~

~~01. Meet Eligibility for Financial Need. To be eligible for AABD cash and Medicaid, the participant must have financial need. The participant has financial need if his allowances, as described in Sections 501 through~~



513 of these rules, are more than his income. The amount of financial need is the amount that the allowances exceed income. ~~(3-29-10)~~(7-1-10)T

~~02. **Maximum Monthly AABD Cash Payment.** If the participant is eligible, his AABD cash payment is the difference between his financial need and his countable income. If the difference is not an even dollar amount, AABD cash is paid at the next higher dollar. The maximum monthly AABD cash payment, for a participant described in Subsections 501.01 and 501.02 of these rules, is fifty-three (\$53) dollars. AABD cash is paid electronically as set forth in IDAPA 16.03.20, "Rules Governing Electronic Payments (EP) of Public Assistance, Food Stamps, and Child Support."~~ ~~(3-29-10)~~

**501. BASIC ALLOWANCE.**

Each participant receives a basic allowance unless he lives in a nursing facility. The basic allowance for each living arrangement is listed in Subsections 501.01 through 501.04~~3~~ of ~~these~~ this rules. The Semi-Independent Group Residential Facility, Room and Board, Residential and Assisted Living Facility and Certified Family Home basic allowances are those in effect January 1, 2001. They do not change with the annual cost-of-living increase in the federal SSI benefit amount. ~~(3-30-07)~~(7-1-10)T

**01. Single Participant.** Through December 31, 2000, a participant is budgeted five hundred forty-five dollars (\$545) monthly as a basic allowance when living in a situation described in Subsections 501.01.a. through 501.01.e. of these rules. Beginning January 1, 2001, the basic allowance increase for a single participant is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. (3-30-07)

- a. Living alone. (7-1-99)
- b. Living with his ineligible spouse. (7-1-99)
- c. Living with another participant who is not his spouse. (7-1-99)
- d. Living in another's household. This includes a living arrangement where the participant purchases lodging (room) and meals (board) from his parent, child or sibling. (3-30-01)
- e. Living with his TAFI child. (7-1-99)

**02. Couple or Participant Living with Essential Person.** Through December 31, 2000, a participant living with his participant spouse or his essential person is budgeted seven hundred sixty-eight dollars (\$768) monthly as a basic allowance. Beginning January 1, 2001, the basic allowance increase for a couple is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a couple. The increase may be rounded up. (3-30-01)

**03. SIGRIF.** A participant living in a semi-independent group residential facility (SIGRIF) is budgeted three hundred forty-nine dollars (\$349) monthly as a basic allowance. (7-1-99)

~~04. **Personal Care Supplement.** A participant living in a Residential and Assisted Living Facility, or Certified Family Home with state plan personal care services, is budgeted five hundred and twenty dollars (\$520) monthly as a Basic Allowance, if he does not have enough income to pay his provider for his rent, utilities and food. To receive a Personal Care Supplement, the participant's income after exclusions and disregards must be less than his Basic Allowance. The amount of the supplement is the remainder when income, less exclusions and disregards, is subtracted for the basic allowance. Beginning January 1, 2003, the basic allowance increase is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person.~~ ~~(3-30-07)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**513. RESIDENTIAL CARE OR ASSISTED LIVING FACILITY AND CERTIFIED FAMILY HOME ALLOWANCES.**

A participant living in a Residential Care or Assisted Living Facility (RALF), in accordance with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho," or a Certified Family Home (CFH), in accordance with

IDAPA 16.03.19, "Rules Governing Certified Family Homes," is budgeted a basic allowance of seventy-seven dollars (\$77) monthly. Beginning January 1, 2007, this basic allowance will be adjusted annually by twenty percent (20%) of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The basic allowance increase will be rounded down to the nearest dollar.

(3-30-07)

**01. Budgeted Monthly Allowance Based On Level of Care.** A participant is budgeted a monthly allowance for care based on *his assessed* the level of care received as described in Section 5145 of these rules. ~~If the participant receives a lower State Plan Personal Care Service (PCS) level of care than his assessed level, his allowance is for the lower level of care. These allowances are used to determine income limits for Medicaid if the participant does not qualify for the Home and Community Based Services Waivers. These allowances are only used for AABD cash when the participant is entitled to the DD Waiver in accordance with Section 789 of these rules.~~ If the participant does not require *one (1) of the State Plan Personal Care Services (PCS) levels of care*, his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. ~~(3-30-07)(7-1-10)T~~

**02. Care Levels and Monthly Allowances.** Beginning January 1, 2006, care levels and monthly allowances are those listed in Table 513.02 of these rules. Beginning January 1, 2007, the RALF and CFH allowances for participants living in a RALF or CFH on State Plan PCS will be adjusted annually by eighty percent (80%) of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. This increase will be rounded up to the next dollar.

TABLE 513.02 - STATE PLAN PCS CARE LEVELS AND ALLOWANCES AS OF 1-1-06		
	Level of Care	Monthly Allowance
a.	Level I	Eight hundred and thirty-five dollars (\$835)
b.	Level II	Nine hundred and two dollars (\$902)
c.	Level III	Nine hundred and sixty-nine dollars (\$969)

(3-30-07)

**03. CFH Operated by Relative.** A participant living in a Certified Family Home (CFH) operated by his parent, child or sibling is not entitled to the CFH State Plan PCS allowances. He may receive the allowance for a person living with a relative as described in Section 501 of these rules. A relative for this purpose is the participant's parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent or grandchild by birth, marriage, or adoption.

(3-30-07)

**514. AABD CASH PAYMENTS.**

Only a participant who receives an SSI payment for the month is eligible for an AABD cash payment in the same month. The AABD cash payment amount is based on the participant's living arrangement described in Subsections 514.01 through 514.04 of this rule. An AABD cash payment is the difference between a participant's financial need and his countable income. If the difference is not an even dollar amount, AABD cash is paid at the next higher dollar. AABD cash is paid electronically as provided in IDAPA 16.03.20, "Electronic Payments of Public Assistance, Food Stamps, and Child Support." (7-1-10)T

**01. Single Participant Maximum Payment.** For a single participant described in Section 501.01 of these rules, the maximum monthly AABD cash payment amount is fifty-three dollars (\$53). (7-1-10)T

**02. Couple or Participant Living with Essential Person Maximum Amount.** For participants described in Subsection 501.02 of these rules, the maximum monthly AABD cash payment amounts are: (7-1-10)T

**a.** A couple receives twenty dollars (\$20); or (7-1-10)T

**b.** A participant living with essential person receives eighteen dollars (\$18). (7-1-10)T

**03. Semi-Independent Group Maximum Payment.** For a participant described in Subsection 501.03 and Section 511 of these rules, the maximum monthly AABD cash payment amount is one hundred sixty-nine dollars (\$169). (7-1-10)T

**04. Room and Board Maximum Payment.** For a participant described in Section 512 of these rules, the maximum monthly AABD cash payment is one hundred ninety-eight dollars (\$198). (7-1-10)T

**05. RALF and CFH.** A participant described in Section 513 of these rules is not eligible for an AABD cash payment. (7-1-10)T

**5145. RESIDENTIAL AND ASSISTED LIVING FACILITY CARE AND CERTIFIED FAMILY HOME ASSESSMENT AND LEVEL OF CARE.**

The participant's need for care, level of care, plan of care, and the licensed facility's ability to provide care is assessed by the Regional Medicaid Services (RMS) when a participant is admitted. The RMS must approve the placement before Medicaid can be approved ~~or a Personal Care Supplement can be paid.~~ (5-3-03)(7-1-10)T

**5156. CHANGE IN LEVEL OF CARE.**

A change in the participant's level of care affects eligibility as described in Subsections 5156.01 and 5156.02 of this rule. (5-3-03)(7-1-10)T

**01. Increase in Level of Care.** An increase in level of care is effective the month the RMS reassesses the level of care. (5-3-03)

**02. Decrease in Level of Care.** When the RMS verifies the participant has a decrease in his level of care, and his income exceeds his new level of care, his Medicaid must be stopped after timely notice. When the RMS determines the participant no longer meets any level of care, his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. ~~He can receive AABD cash.~~ (5-3-03)(7-1-10)T

**5167. -- 520. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

~~**522. MOVE TO A RESIDENTIAL CARE AND ASSISTED LIVING FACILITY OR CERTIFIED FAMILY HOME FROM NURSING HOME OR HOSPITAL.**~~

~~A participant may move to a Residential Care and Assisted Living Facility or Certified Family Home from a nursing home or hospital. The participant may be eligible for a Personal Care Supplement for the month of the move. Determine eligibility for, and the amount of the supplement, using Table 522.~~

TABLE 522 – PERSONAL CARE SUPPLEMENT		
	Step	Procedure
01.	Step 1	<del>Determine the participant's countable income, for the month of the move, by subtracting applicable income exclusions and disregards.</del>
02.	Step 2	<del>Subtract income used to meet patient liability in the nursing home for the month of the move.</del>
03.	Step 3	<del>Subtract the nursing home personal needs allowance from the income remaining after Step 1. Use this income to determine the amount of the Personal Care Supplement in Subsection 501.05 of these rules.</del>

(5-3-03)

**522. -- 523. (RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

603. ~~RETROACTIVE AABD CASH (RESERVED).~~

~~Retroactive AABD cash is paid when a participant is underpaid due to Department error. Retroactive AABD cash is paid when a participant gets a favorable fair hearing decision. Retroactive AABD cash is paid when an AABD applicant's SSI payments are delayed because of SSA delays. (7-1-99)~~

604. ~~RETROACTIVE AABD CASH AND PARTICIPANT DETERMINED SSI ELIGIBLE AFTER APPEAL.~~

If the SSA finds a participant is blind or disabled, based on an appeal of an SSA decision, the participant meets the disability requirements for AABD cash and related Medicaid on the effective date determined by SSA. AABD cash payments are effective no earlier than the month SSA issues the favorable decision for SSI payments.

~~(7-1-99)~~(7-1-10)T

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

**16.07.37 - CHILDREN'S MENTAL HEALTH SERVICES**

**DOCKET NO. 16-0737-1001**

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

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

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code; and H0715 (2010) - DHW Children's Mental Health budget holdbacks for SFY 2010 and appropriations for SFY 2011.

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

<b>Thursday, June 17, 2010 5:00 p.m. PDT</b>	<b>Tuesday, June 29, 2010 5:00 p.m. MDT</b>	<b>Wednesday, June 30, 2010 5:00 p.m. MDT</b>
<b>Dept. of Health &amp; Welfare-Reg. 2 State Office Building 1118 F Street 3rd Floor Conf. Rm. Lewiston, ID</b>	<b>Dept. of Health &amp; Welfare-Reg.7 State Office Building 150 Shoup Ave 2nd Floor Conf. Rm. Idaho Falls, ID</b>	<b>Dept. Health &amp; Welfare-Reg. 4 J.R. Williams Building 700 West State Street East Conf. Rm. Boise, ID</b>

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

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

The proposed rule changes will allow the Department to limit and prioritize Children's Mental Health Services, including eligibility. This is necessary due to the reductions in appropriations. These changes will give the Department the ability to focus the available resources on those who have the greatest clinical and financial needs.

In addition, these rule changes will more closely align the Children's Mental Health Services rules with the corresponding rules in IDAPA 16.07.33, "Adult Mental Health Services."

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to protect public health, safety, or welfare, and to comply with deadlines in amendments to governing law or federal programs (in this case, H0715 (2010)).

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

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

The fiscal impact of the holdback on funds for SFY 2010 and the appropriations for SFY 2011 (both in H0715) reduces the appropriation for SFY 2010 by \$566,000 and by an additional \$190,500 for SFY 2011, for a total reduction of \$756,500. The rule changes will align the rules with the intent language found in H0715.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to meet budget appropriations approved by the legislature under H0715 (2010).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Chuck Halligan at (208) 334-6559.

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 June 30, 2010.

DATED this 28th day of April, 2010.

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

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**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 16-0737-1001**

**407. ELIGIBILITY DETERMINATION.**

**01. The Department Determines Eligibility for Mental Health Services.** The total number of children who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (5-1-10)T

**042. Eligibility Requirements.** To be eligible for children's mental health services through a voluntary application to the Department, the applicant must: (5-8-09)

- a.** Be under eighteen (18) years of age; (5-8-09)
- b.** Reside within the state of Idaho; (5-8-09)
- c.** Have a DSM-IV-TR Axis I diagnosis. A substance use disorder alone, or developmental disorder alone, does not constitute an eligible Axis I diagnosis, although one (1) or more of these conditions may co-exist with an eligible Axis I diagnosis; and (5-8-09)

**d.** Have a substantial functional impairment as assessed by using the Child and Adolescent Functional Assessment Scale (CAFAS) or the Preschool and Early Childhood Functional Assessment Scale (PECFAS). Substantial functional impairment requires a full eight (8) (CAFAS) or seven (7) (PECFAS) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales: ~~(5-8-09)~~(5-1-10)T

- i.** Self-harmful behavior; (5-8-09)
- ii.** Moods/emotions; or (5-8-09)
- iii.** Thinking. (5-8-09)

**023. Court-Ordered Assessment, Treatment, and Services.** The court may order the Department to provide assessment, treatment, and services under the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code and the Juvenile Corrections Act, Title 20, Chapter 5, Idaho Code. Subject to court approval, the Department will make efforts to include parents and guardians in the assessment, treatment, and service planning process. (5-8-09)

**034. Ineligible Conditions.** A child who does not meet the requirements under Subsections 407.042 or 407.023 of this rule is not eligible for children's mental health services, other than crisis response. A child with a diagnosis of substance use disorder alone, or developmental disorder alone, may be eligible for Department services under IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services" or IDAPA 16.04.11, "Developmental Disabilities Agencies," for substance use or developmental disability services. ~~(5-8-09)~~(5-1-10)T

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-1001**

**NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

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

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 63-105A, Idaho Code, and the repeal of Section 63-602FF, Idaho Code.

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

Rule 802 changes comport with the requirements of House Bill 645 to require downward adjustments to the new construction roll for resolved Board of Tax Appeals cases, double or erroneous assessments, and change of land use classification when such changes result in lower taxable value and provided that a higher value was included on a previous year's new construction roll.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(2), the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

In compliance with deadlines in amendments to governing law.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increase is justified and necessary to avoid immediate danger and the fee is appropriate for the following reasons: NA

**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:

Not applicable, this rule does not result in any measurable fiscal impact beyond that resulting from the legislation.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Alan Dornfest at (208) 334-7544.

DATED this 21st day of April, 2010.

Alan Dornfest  
Tax Policy Supervisor  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7544

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**THE FOLLOWING IS THE TEMPORARY RULE TEXT FOR DOCKET NO. 35-0103-1001**



**802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (RULE 802).**

Sections 63-802, 63-301A, 63-602W, and 63-602NN, Idaho Code. (5-8-09)

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

**a.** “Change of Land Use Classification.” “Change of land use classification” shall mean any change in land use resulting in a secondary category change and in ~~an increase~~ change in taxable land value to be reflected on the current property roll. ~~(3-30-07)~~(1-1-10)T

~~i. This increase in value due to change of land use classification shall be reported on the new construction roll in the year in which the new category appears on the current property roll unless the increase in value was previously included on the new construction roll. (3-30-07)~~

~~ii. The increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (3-30-07)~~

~~iii. When the land value, had the land remained in its previous use category, is less than the land value for a previous year in which value for the same property was included in the value reported on the new construction roll, the value calculated in Subparagraph 802.01.a.ii. of this Rule shall be reduced by the value included on any previous new construction roll. (3-30-07)~~

**b.** “Incremental Value as of December 31, 2006.” “Incremental value as of December 31, 2006” means the total of the increment values on the property roll, subsequent property roll, missed property roll, and operating property roll in 2006. (4-2-08)

**c.** “Nonresidential Structure.” “Nonresidential structure” shall mean any structure listed by the assessor in any secondary category not described as residential, manufactured homes, or improvements to manufactured homes in Rule 511 of these rules. (4-2-08)

**02. New Construction Roll Listing.** “Listing” shall mean a summary report of the net taxable value of property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, but shall not include otherwise qualifying new construction, the value of which will be included in the increment value of any revenue allocation area within any urban renewal district encompassed by the taxing district or unit. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (1-1-10)T

**a.** Previously allowable new construction that has never been included. When a taxing district proves new construction described by Section 63-301A(3), Idaho Code, has never been included on a new construction roll, the county assessor must list that property on the immediate next new construction roll at the value proven by the taxing district. Any such additional new construction must also be separately listed for each taxing district or unit; ~~and the separate listing must show the year or years of the new construction roll that would have been appropriate for this additional new construction.~~ The taxing district has the burden of proving the new construction was omitted from any new construction roll and the value that would have been listed for that property had it been listed on the appropriate new construction roll. No taxing district shall ever be granted any increase in budget authority greater than the amount that would have resulted had the property been listed on the appropriate new construction roll. Regardless of the year that the new construction should have been listed on the appropriate new construction roll, additional budget authority resulting from new construction previously omitted from a new construction roll and listed on the current year’s new construction roll shall be permitted only if the taxing district is in compliance with the budget hearing notification requirements of Section 63-802A, Idaho Code, for the current year. ~~(4-2-08)~~(1-1-10)T

**b.** Reporting the amount of taxable market value to be deducted. For each taxing district or unit, the new construction roll listing shall separately identify the total amount of taxable market value to be deducted as required in Section 63-301A(1)(f), Idaho Code. (1-1-10)T

c. Determining the amount of taxable market value to be deducted. The amount of taxable market value to be deducted under Section 63-301A(1)(f)(i) shall be determined by the highest authority to which the assessment is ultimately appealed. Accordingly, adjustments should not be made until there has been a final decision on any appeal. (1-1-10)T

**03. Special Provisions for Value Increases and Decreases Related to Change of Land Use Classification as defined in Subsection 802.01.a. of this rule.** (1-1-10)T

a. Value increases. Certain related land value increases are to be included on the new construction roll. (1-1-10)T

i. Increases in land value shall be reported on the new construction roll in the year in which the new category appears on the current property roll provided, however, that no amount previously included shall be reported again. (1-1-10)T

ii. The increase in taxable land value to be reported shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (1-1-10)T

b. Value decreases. Certain related land value decreases are to be included on the new construction roll and subtracted from total new construction value for any taxing district. (1-1-10)T

i. Value decreases are to be reported only for land for which taxable market value had previously been added to any new construction roll. (1-1-10)T

ii. If the current land category is the same as the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted shall equal the amount originally added. For example, a dry grazing land parcel that would have had a value of ten thousand dollars (\$10,000) became commercial land and was assessed at fifty thousand dollars (\$50,000). The forty thousand dollar (\$40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as dry grazing land and is to be assessed at fifteen thousand dollars (\$15,000). The forty thousand dollar (\$40,000) difference that was added to the year one (1) new construction roll must be deducted from the value shown on the new construction roll in year two (2). (1-1-10)T

iii. If the current land category is different than the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted shall be the lesser of the amount originally added or the amount that would have been added had the first change in land use been from the current land category. For example, a dry grazing land parcel that would have had a value of ten thousand dollars (\$10,000) became commercial land and was assessed at fifty thousand dollars (\$50,000). The forty thousand dollar (\$40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as irrigated agricultural land and would have had a value in year one (1) of twenty thousand dollars (\$20,000). The amount to be subtracted from the value shown on the new construction roll in year two (2) is thirty thousand dollars (\$30,000). (1-1-10)T

iv. Value decreases resulting from previously included land value becoming exempt are to be reported and subtracted. (1-1-10)T

**034. Manufactured Housing.** “Installation” of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

**045. Partial New Construction Values.** Except as provided in Subsection 802.056 of this rule, the net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Except as provided in Subsection 802.056 of this rule, any increase in a nonresidential parcel’s taxable value, due to new construction, shall be computed by subtracting the previous year’s or years’ partial taxable value(s) from the current taxable value. If any of this difference is attributable to inflation, such value, except as provided in Subsection 802.056 of this rule, shall not be included on the new construction roll.

Example: Assume a partially completed, nonresidential improvement was assessed at ten thousand dollars (\$10,000) as of January 1, 2004. The improvement was occupied February 2, 2004. Assume the ten thousand dollars (\$10,000) value was on the 2004 new construction roll. Assume that in 2005 the improvement is assessed at ninety thousand dollars (\$90,000). Assume there has been no inflation. The value that can be reported on the 2005 new construction roll is calculated as follows:

2005 Value	\$90,000
2004 Value Already Reported on New Construction Roll	<\$10,000>
2005 New Construction Roll Value (this improvement)	\$80,000

~~(4-2-08)~~(1-1-10)T

**056. Change in Status.**

(4-2-08)

**a.** A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W or Section 63-602NN, Idaho Code. For any such property, the amount that may be included on the new construction roll shall be the value of the portion of the property subject to the exemption at the time the exemption was first granted. (5-8-09)

**b.** Upon receipt by the State Tax Commission of a resolution recommending adoption of an ordinance for termination of a revenue allocation area under Section 50-2903(5), Idaho Code, any positive difference of the most current increment value minus the “incremental value as of December 31, 2006,” shall be added to the appropriate year’s new construction roll. When this information is received after the fourth Monday in July, this positive net increment value shall be added to the following year’s new construction roll. (4-2-08)

**067. Limitation on Annexation and New Construction Roll Value.** For any taxing district annexing property in a given year, the new construction roll for the following year shall not include value that has been included in the annexation value. When an annexation includes any part of a revenue allocation area, only taxable value that is part of the current base value of the taxing district is to be included in the annexation value reported for that taxing district for the year following the year of the annexation. (3-29-10)

**078. Notification of New Construction Roll and Annexation Values.** On or before the fourth Monday in July, each county auditor must report the net taxable values on the new construction roll and within annexed areas for each appropriate taxing district or unit to that taxing district or unit. (3-20-04)

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0105-1001**

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

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

**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 63-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 16, 2010.

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

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

Rule 130 is being amended to notify fuel distributors that ethanol, natural gasoline, and gasoline blend stocks are received when the fuels are imported into Idaho, removed from an Idaho pipeline terminal, or removed from an Idaho ethanol production facility; to provide a method for distributors to deduct the gallons of ethanol placed into storage inside an Idaho pipeline terminal; and to show that the motor fuels tax and transfer fee are due when ethanol, natural gasoline, and gasoline blend stocks are received.

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

In compliance with deadlines in amendments to governing law.

**FEE SUMMARY:** Pursuant to Section 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(2), Idaho Code, negotiated rulemaking was not conducted because the amendments are simple in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Randy Nilson at (208) 334-7544.

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 23, 2010.

DATED this 30th day of April, 2010.

Randy Nilson  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Blvd., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410  
(208) 334-7544

**THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 35-0105-1001**

**130. DISTRIBUTOR'S FUEL TAX REPORTS (RULE 130).**

**01. Monthly Reports.** Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and/or outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (3-30-01)

- a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-98)
- b. The total quantity of motor fuels includes natural gasoline, gasoline blend stocks, ethanol, ethanol blended with motor fuel, and other petroleum products received during the month. See Rule 130.06 of these Rules; ~~(3-29-10)~~(7-1-10)T
- c. The total quantity of motor fuels and other petroleum products disbursed during the month. A ~~Disbursements include~~ is motor fuel that is: ~~(4-11-06)~~(7-1-10)T
  - i. Delivered to licensed distributors tax and transfer fee not collected; (4-11-06)
  - ii. Exported tax and transfer fee exempt; ~~(4-11-06)~~(7-1-10)T
  - iii. Delivered to the Idaho National Guard tax exempt; ~~or~~ ~~(4-11-06)~~(7-1-10)T
  - iv. ~~Exempt from~~ Fuels tax and transfer fee not collected because the fuel is the subject of an agreement authorized by Section 67-4002, Idaho Code, to the extent provided by the agreement, but only if the agreement is signed by the governor and appropriate representative of a tribe before December 1, 2007; or ~~(4-2-08)~~(7-1-10)T
  - v. Placed into storage at an Idaho pipeline terminal fuels tax and transfer fee not collected. (7-1-10)T
- d. The total quantity of motor fuels and other petroleum products transferred or relabeled from one (1) fuel type to another; (7-1-98)
- e. The casualty loss documented with satisfactory written explanation of proof of loss; (7-1-98)
- f. The ending inventory of motor fuels and other petroleum products on the last day of the month; (7-1-98)
- g. The gross taxable gallons of motor fuels and other petroleum products; (7-1-98)
- h. The tax-paid purchases; (7-1-98)
- i. The net taxable gallons; (7-1-98)
- j. The gallons of ethanol reported in ethanol blended fuel. The deduction for ethanol is limited to ten percent (10%) of the total volume of the product that meets the definition of gasohol as defined in Section 63-2401, Idaho Code. Biodiesel reported in biodiesel and biodiesel blended fuel. The deduction for biodiesel is up to ten

percent (10%) of the total volume. See Section 63-2407, Idaho Code, for other limitations to these deductions (This Subsection only applies to deductions for ethanol or biodiesel that could be made before June 1, 2009); (3-29-10)

**k.** The gallons after deduction of a one percent (1%) or two percent (2%) allowance, whichever is appropriate. (This subsection only applies to receipts of motor fuels received before December 1, 2007.) See Rule 140 of these rules; (4-2-08)

**l.** The gallons after deduction of a two percent (2%) allowance. (This subsection only applies to receipts of motor fuels received on and after December 1, 2007.) See Rule 140 of these rules; (4-2-08)

**m.** The tax computation; (7-1-98)

**n.** The bad debt amounts; refer to Rule 140 of these rules (This section only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.); (3-29-10)

**o.** The gaseous fuels permit fees; and (4-11-06)

**p.** The net tax due. (4-11-06)

**02. Exemption from Licensing and Monthly Reporting.** See Rule 135 for exemptions from obtaining a motor fuels distributor license and filing monthly reports. (3-29-10)

**03. Machine Tabulated Data.** Machine tabulated data will be accepted in lieu of detailed schedules on State Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the State Tax Commission with a copy of the format and must be granted written authorization to use that format. (7-1-98)

**04. Supplemental Reports.** In addition to ~~the~~ a timely filed original monthly report, a supplemental report may be filed in those cases involving additional shipments of motor fuels and other petroleum products to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be subject to penalty if reported in the supplemental report. If a supplemental report is filed, the State Tax Commission will impose interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth day of the month following the month in which a report from which shipments were omitted was due. (7-1-98)

**05. Timely Reporting.** Any motor fuel and other petroleum product shipments that are: ~~(7-1-98)~~(7-1-10)T

**a.** Reported on a timely supplemental report shall be subject to interest but are not subject to penalty. (7-1-98)

**b.** Not reported on a timely monthly or supplemental report shall be subject to interest and may be subject to penalty. (7-1-99)

**06. Motor Fuels Receipts.** All gasoline, natural gasoline, gasoline blend stocks, ethanol, ethanol blended fuels, aircraft engine fuel, biodiesel, biodiesel blends, and undyed diesel fuel or other special fuels received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to Rule 105 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. ~~(5-8-09)~~(7-1-10)T

# **IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR**

## **44.01.01 - RULES OF THE ADMINISTRATIVE RULES COORDINATOR**

### **DOCKET NO. 44-0101-1001**

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

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

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Administrative Rules Coordinator has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to the Administrative Procedure Act, Section 67-5206(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 16, 2010.

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

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

This rulemaking implements the provisions of House Bills 412 and 413 by clarifying and modifying certain definitions; changing references to the publication and purchase of printed and bound volumes to electronic-only versions of the Administrative Code and Administrative Bulletin and adjusts subscription rates; eliminating redundant and obsolete language; and clarifying ambiguous language. It also makes several housekeeping changes to conform rule to current style requirements.

**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 adoption of this temporary rule is necessary to meet deadlines in governing law and it confers a benefit to the state through decreased expenditures for the publication and dissemination of rules and related documents.

**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: No fees or charges are being imposed or changed through this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact to the general fund as a result of this rulemaking. This rulemaking will reduce expenditures.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule contact Dennis Stevenson, Administrative Rules Coordinator, at 208-332-1820 or email at [rulescoordinator@adm.idaho.gov](mailto:rulescoordinator@adm.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 June 23, 2010.

DATED this 10th day of June, 2010.

Dennis R. Stevenson, Administrative Rules Coordinator  
Office of the Administrative Rules Coordinator  
Department of Administration

650 W. State Street, PO Box 83720  
Boise, ID 83720-0306  
Phone: 208-332-0820; Fax 208-332-1896

**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 44-0101-1001**

**005. INCLUSIVE GENDER.**

For all ~~sections and subsections of all~~ administrative rules in Idaho, the terms and references used in the masculine include the feminine and vice versa, as appropriate. ~~(4-5-00)~~(7-1-10)T

**006. SEVERABILITY.**

~~The sections and subsections of a~~ All administrative rules in Idaho are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. ~~(7-1-93)~~(7-1-10)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**009. ~~(RESERVED)~~ ELECTRONIC ACCESS - WEB ADDRESS.**

The Administrative Code and the Administrative Bulletin are published in electronic format only and may be accessed, along with other rules-related documents, through the Department of Administration's web portal on the Rules Coordinator's web site at the following address: <http://adm.idaho.gov/adminrules/>. (7-1-10)T

**010. DEFINITIONS.**

**01. APA.** The Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-93)

**02. Agency.** Each state board, commission, department or officer authorized by law to make rules or to determine contested cases, but does not include the legislative or judicial branches, executive officers listed in section 1, article IV, of the constitution of the state of Idaho in the exercise of powers derived directly and exclusively from the constitution, the state militia or the state board of correction. (7-1-93)

**03. Agency Action.** In these rules as it relates to rulemaking means the whole or part of a rule, or the failure to issue a rule. ~~(7-1-93)~~(7-1-10)T

**04. Agency Head.** An individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. (7-1-93)

**05. Bulletin.** The Idaho Administrative Bulletin, as established in Section 67-5203, Idaho Code. (7-1-93)

**06. Catchline.** A short description ~~of the section or subsection to~~ used in the first subdivision level of a rule that introduces a block of text ~~at the major section level and first sublevel.~~ ~~(7-1-93)~~(7-1-10)T

**07. Certified Rules.** Rules certified in effect during a specified period in time after July 1, 1993. Only the coordinator shall certify rules as the officially promulgated rules of Idaho. (7-1-93)

**08. Code.** The Idaho Administrative Code, as established in Section 67-5204, Idaho Code. (7-1-93)

**09. Coordinator.** The office of the Administrative Rules Coordinator, as ~~created~~ established in Section 67-5202, Idaho Code. ~~(7-1-97)~~(7-1-10)T

**10. Document.** Any proclamation, executive order, notice, rule or statement of policy of an agency. (7-1-93)

**11. Form or Format.** The internal organization, structure and presentation of the rules in Idaho as set forth in this chapter. (7-1-93)



12. **IDAPA.** ~~A numbering designation for~~ The acronym for “Idaho Administrative Procedure Act” that is used with a numbering schematic that uniquely identifies all administrative rules ~~in Idaho which denotes rules~~ promulgated in accordance with the Idaho Administrative Procedure Act (Title 67, Chapter 52, Idaho Code). The numbering schematic ~~denotes~~ designates a distinct agency code, ~~a~~ title code, and chapter code ~~and section, subsection, paragraph, and subparagraph numbering, as appropriate~~ that, when combined, identify an individual rule chapter of an agency. This numbering designation is referred to as the IDAPA number and the administrative rules are often referred to as the IDAPA rules. ~~(3-30-01)(7-1-10)T~~

13. **Legal Citation.** The specific reference to a document or passage of a document using the generally accepted method of notation. For all rules, the designation incorporates a form of the IDAPA numbering schematic. (7-1-93)

14. **Legislative Format.** A form of displaying modifications to text by underscoring new text and overstriking deleted text. (7-1-97)

15. **Numbering.** The alpha-numeric ~~display~~ schematic ~~for the~~ used to identify and subdivide the administrative rules ~~in Idaho, also known as the IDAPA system,~~ as set forth in this chapter. ~~(7-1-93)(7-1-10)T~~

16. **Official Text.** Text of a document promulgated by an agency and published in the Administrative Code in accordance with Title 67, Chapter 52, Idaho Code, ~~and that~~ is the only legally enforceable text of such document. ~~(7-1-93)(7-1-10)T~~

17. **Page.** For purposes of determining the fees charged to state agencies for Bulletin and Code publication and promulgation, one (1) page is one (1) ~~impression~~ side of ~~the official text published in the Code or Bulletin~~ an electronic document that if printed would be eight and one-half (8 1/2) inches wide by eleven (11) inches long. ~~(7-1-97)(7-1-10)T~~

18. **Publish.** To bring before the public by publication in the Bulletin or Administrative Code, or as otherwise specifically provided by law. (7-1-93)

19. **Regulation.** A federal rule promulgated in accordance with the federal Administrative Procedure Act, Public Law 404, 60 Stat. 237 (1946), as amended. (7-1-93)

20. **Rule.** The whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of Title 67, Chapter 52, Idaho Code, that implements, interprets, or prescribes a law or policy, or the practice and procedure requirements of an agency. The term includes the amendment, repeal, and suspension of an existing rule. ~~(7-1-93)(7-1-10)T~~

21. **Rule Drafter Writer.** A person who creates, modifies, or proposes change to the administrative rules of the state of Idaho. ~~(7-1-93)(7-1-10)T~~

22. **Rulemaking.** The process for formulation, ~~and promulgation, in order to~~ adoption, amendment, or repeal a rule. ~~(7-1-93)(7-1-10)T~~

23. **Section, Subsection, Paragraph, and Subparagraph.** Section, subsection, paragraph, and subparagraph are divisions that breakdown a rule into separate blocks of text that are numbered using the numbering schematic set forth in this rule. ~~If further breakdown of the rule beyond the subparagraph level is required approval must be granted by the Administrative Rules Coordinator.~~ The text of a rule is subdivided in the following format: ~~(3-30-01)(7-1-10)T~~

a. **Section.** ~~This will~~ A main section includes all text that appears at the ~~main~~ three-digit level and any subdivisions thereof. As an example, this text is part of the larger main Section “010.” This entire section is cited as Section 010 and includes all text starting at 010 and ending at 010.24. ~~(3-30-01)(7-1-10)T~~

b. **Subsection.** This is the ~~further breakdown~~ first subdivision of a main section and ~~will~~ uses a two-digit numeric code. As an example, this subsection is “23” and is cited as Subsection 010.23. ~~(3-30-01)(7-1-10)T~~

c. Paragraph. ~~This is the further breakdown of A paragraph~~ subdivides a subsection and ~~will~~ uses a lower case alphabetic code followed by a period. As an example, this paragraph is "c." and is cited as Paragraph 010.23.c. ~~(3-30-01)(7-1-10)T~~

d. Subparagraph. ~~This is a further breakdown of A subparagraph~~ subdivides a paragraph and ~~will~~ uses a lower case roman numeral numeric code followed by a period. As an example, a further breakdown of this paragraph "d." would be cited as Subparagraph 010.23.d.i. ~~(3-30-01)(7-1-10)T~~

24. **Style.** A method of writing rules denoting standard elements of consistency, simplicity, and clarity as set forth in this chapter. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**051. AGENCY PAYMENT FOR RULEMAKING, PUBLICATION, AND DISTRIBUTION.**

Pursuant to Section 67-5205(4), Idaho Code, the coordinator is authorized to allocate the costs of for publication and distribution of all rules published electronically in the Code and the Bulletin to each participating agency on a per-page basis. A per-page fee may be charged even though less than a full page of text is required to be published. ~~(7-1-93)(7-1-10)T~~

~~01. **Less Than a Full Page.** The cost per page may be imposed even though less than a full page of publication is required.~~ ~~(7-1-97)~~

~~021. **Cost to Agencies for Code Publication.** Pursuant to Section 67-5205(4), Idaho Code, ~~t~~ The fee charged for rules ~~of each agency contained that are electronically published~~ in the Code ~~billed to the respective agency shall~~ may not exceed fifty-six dollars (\$56) ~~for each per page of the Code~~. The fee ~~shall be calculated~~ is based on actual pages published by the coordinator for each agency within the official copy of the Code. The cost allocations to each participating agency will coincide with the annual publication of the Code and each agency must promptly pay into the Administrative Code Account such allocated costs. ~~(3-20-04)(7-1-10)T~~~~

~~032. **Cost to Agencies for Bulletin Publication.** Pursuant to Section 67-5205(4), Idaho Code, ~~t~~ The fee charged for rules ~~of each agency contained that are electronically published~~ in the Bulletin ~~billed to the respective agency shall~~ may not exceed sixty-one dollars (\$61) ~~for each per page per publication event~~. This fee ~~shall be calculated~~ is based on actual pages published by the coordinator for each agency within the official copy of the Bulletin. The cost allocations to each participating agency ~~shall will~~ be made monthly by the coordinator, and each participating agency ~~shall must~~ promptly pay into the Administrative Code Account such allocated costs. ~~(3-20-04)(7-1-10)T~~~~

**052. COSTS OF PUBLICATIONS - SUBSCRIPTION RATES AND FREE DISTRIBUTION.**

Pursuant to Section 67-5205(2), Idaho Code, the coordinator is authorized to charge for ~~copies of~~ all APA-related publications. ~~(3-20-04)(7-1-10)T~~

~~01. **Cost of Individual Rule Chapters.** The prices to be charged for chapters of rules or portions thereof will not exceed the larger of five dollars (\$5), or ten cents (\$.10) per page.~~ ~~(7-1-97)~~

~~021. **Cost of Certified Rules.** Printed copies of certified rules will be provided without charge to authorized state agency personnel and will include an affidavit of certification, notarized by the coordinator, and a copy of specific rules in effect on a specific date after July 1, 1993.~~ ~~(7-1-97)(7-1-10)T~~

~~032. **Cost of Subscription Rate for the Administrative Bulletin.** The prices to be charged for the Bulletin in the form of an annual subscription will not exceed four hundred dollars (\$400) per year. The price for individual, monthly issues, which are subject to availability, will not exceed the larger of forty dollars (\$40) per volume or twenty cents (\$.20) per page, plus sales tax, if applicable. An annual subscription to the Bulletin on CD-ROM, which begins with the first Bulletin published following the adjournment of the legislative session and ends with the January Bulletin just prior to the commencement of the next succeeding legislative session, will not exceed~~

one hundred dollars (\$100) per year, plus applicable sales tax. A copy of an individual CD of the Bulletin will not exceed twenty dollars (\$20), plus applicable sales tax. (3-16-04)(7-1-10)T

**043. Cost of Subscription Rate for the Administrative Code.** *The prices to be charged for the Code in the form of an annual subscription will not exceed four hundred and fifty dollars (\$450) plus sales tax, if applicable, per year. Individual copies of the Administrative Code may be purchased but are subject to availability. The cost per volume will not exceed seventy five dollars (\$75).* Annual subscriptions for the Code on CD-ROM will not exceed one hundred dollars (\$100) per CD. The coordinator may provide discounts for volume purchases. (3-16-04)(7-1-10)T

**054. Free Distribution of Publications.** In accordance with Section 67-5205(2), Idaho Code, the coordinator will distribute ~~copies~~ the Code on electronic media free of charge ~~as follows~~ to the repositories listed in 67-5205(2), Idaho Code. (3-20-04)(7-1-10)T

- ~~a. One (1) to each county clerk for the use of the county law library. (7-1-93)~~
- ~~b. One (1) each to the senate and the house of representatives. (7-1-93)~~
- ~~c. One (1) to the attorney general. (7-1-93)~~
- ~~d. One (1) to the legislative council. (7-1-93)~~
- ~~e. One (1) each to the state universities and colleges, and one (1) to each community college. (7-1-93)~~
- ~~f. One (1) to the state law library. (7-1-93)~~
- ~~g. One (1) to the state library. (7-1-93)~~
- ~~h. One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, College of Idaho Library, BYU Idaho Library, Northwest Nazarene University Library and Twin Falls Public Library. (9-7-94)~~

**06. Other Free Publications.** *The coordinator may distribute free copies for official use and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions.* (3-20-04)

053. -- 099. (RESERVED).

100. **FILING AND REVIEW AND SUBMISSION OF AGENCY RULES.**

**01. Coordinator's Review of Rules Filed for Publication.** In accordance with Section 67-5202(3), Idaho Code, the coordinator will prescribe a uniform style, form, and numbering system that will apply to all rules adopted by all ~~Idaho state~~ agencies. The coordinator will review all ~~submitted~~ rules filed for publication for style, format, and numbering, and may return a rule that is not in the proper style, form, or number. (7-1-93)(7-1-10)T

**02. Submission of Agency Rule Filing.** All agencies must ~~submit~~ file a copy of their respective rules in accordance with Sections 67-5202(3), 67-5221(1), 67-5224(2), and 67-5226(4), Idaho Code, for publication in the Bulletin, certified by the agency director or designee, in ~~the following~~ a formats prescribed by the coordinator. (6-7-94)(7-1-10)T

- ~~a. All submitted rules in will be printed, one-sided only, on eight and one-half (8 1/2) inch wide by eleven (11) inch long paper denoting all changes in legislative format; and (7-1-97)~~
- ~~b. All Rules submitted rules will be provided electronically denoting legislative format. Electronic filing may include, but is not limited to, electronic mail, FTP, diskette, or other electronic transfer methodology. (7-1-97)~~

~~e.~~ *All rules submitted to the coordinator must be obtained from the most current document available from the coordinator.* (7-1-97)

~~02-~~ *Submitted Rules. All submitted rules must be numbered, styled and formatted in accordance with these rules.* (7-1-97)

### **101. UNIFORM STYLE AND FORMAT OF RULES.**

In accordance with Section 67-5206(1)(b), Idaho Code, the coordinator will establish a uniform style and format applicable to rules adopted by all agencies. (7-1-93)

**01. Standard Requirements of Style.** Text used within a rule includes three (3) distinct elements; consistency, simplicity, and clarity. (7-1-97)

**a.** Consistency denotes standardized arrangement of specific organizational division of text as well as language structures. Rule text must appear with consistent application of terms, sentences, structures, formats, numbering, and other structures to avoid confusion to the reader. (7-1-93)

**b.** Simplicity denotes presentation of complex ideas into easily understood concepts within the text of the rule. (7-1-93)

**c.** Clarity in rule drafting avoids unclear, ambiguous and obscure terms. Rules are to be simple, concrete combinations of text that conveys the meaning while avoiding vagueness and the need for varying interpretations. (7-1-93)

**02. Uniform Format Requirements.** Uniform format is required for all rules adopted in accordance with the APA. All rules must incorporate consistent organizational structure and content that will allow the coordinator to consistently index and reference all rules. Rules not formatted as described in this chapter will not be inserted in the Code and will not be considered valid for the purposes of Section 67-5231(1), Idaho Code. Specific requirements are as follows: (7-1-97)

**a.** All major sections must include the numbering scheme provided in this chapter followed by the capitalized catchline. (7-1-97)

**b.** The first required section of each rule chapter ("000") ~~will be~~ is entitled "Legal Authority." This section ~~will~~ must include all statutory authority granted or implied to the agency, both state and federal, that allow sanctioning rulemaking ~~authority~~ as set forth Section 67-5231(1), Idaho Code. (7-1-93)(7-1-10)T

**c.** The second required section of each rule chapter ("001") ~~will be~~ is entitled "Title And Scope." This section ~~will~~ must include a precise description of the legal citation of the chapter. Also, this section must include a brief descriptive summary of the scope of the rule. (7-1-93)(7-1-10)T

**d.** The third required section of each rule chapter ("002") ~~will be~~ is entitled "Written Interpretations." This section ~~will~~ must indicate if the agency has or relies on any written interpretive statements ~~of the rule chapter, or guidance documents, as described in 67-5250(2), Idaho Code, that are intended to guide agency actions affecting the rights or interests of persons outside the agency~~ in accordance with Section 67-5201(19)(b)(iv), Idaho Code. (3-30-01)(7-1-10)T

**e.** The fourth required section of each rule chapter ("003") ~~will be~~ is entitled "Administrative Appeals." This section ~~will~~ must describe any appeal or hearing rights for affected individuals relating to the programs or services described in the rule chapter. (7-1-93)(7-1-10)T

**f.** The fifth required section of each rule chapter, the "004" section, will be entitled "Incorporation By Reference." This section will describe and list all documents being incorporated by reference into the rule pursuant to, and in accordance with, Section 67-5229, Idaho Code. (3-30-01)

**g.** The sixth required section of each rule chapter, the "005" section, will be entitled "Office -- Office

Hours -- Mailing Address And Street Address.” This section includes the principal location of the main office, the hours the office is open to the public, the mailing address where documents may be filed or obtained, and the physical address of the main office of the agency. (3-30-01)

**h.** The seventh required section of each rule chapter, the “006” section, will be entitled “Public Records Act Compliance” and will state that the rule has been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and is a public record. (3-30-01)

**i.** The eighth required section of each rule chapter, one (1) of “007” through “010” sections, will be entitled “Definitions.” This section lists alphabetically all terms distinct to the rule chapter. Definitions are used to describe specific terms of art and other words or phrases to aid the user in describing the intent of the rule. (3-30-01)

**j.** Reserved major sections may be used as appropriate to allow for expansion, segregation, and flexibility within the chapter. Subsections, paragraphs, and subparagraphs shall not be designated as reserved. (3-30-01)

**k.** The remaining sections within the body of the rule chapter, the “011” through “999” sections, may be used as the agency deems necessary for describing the programs, services, requirements, focus and intent of the rule. (7-1-93)

**l.** A paragraph of descriptive references may be used at the end of the major section after all sublevel sections. This descriptive paragraph may include: effective dates set by the legislature, cross-references, compiler’s notes, references or extractions of written interpretations, or other reference tools approved by the coordinator. The descriptive paragraph will include a format and style distinct from the text of the rules as approved by the coordinator. (7-1-97)

**03. Maps, Charts, Graphs, Diagrams, and Other Visual Aids.** Rules may contain maps, charts, graphs, diagrams, illustrations, forms, or similar descriptive text within the body of the rule. (7-1-97)

~~**a.** Agencies are encouraged to include written interpretations of the rule where the requirement to list the material in the rule is in question. (7-1-97)~~

~~**b.** Agencies are encouraged to include written interpretations by incorporating such documents by reference, in accordance with Section 67-5229, Idaho Code. (7-1-97)~~

**04. Legislative Format.** ~~All modified rule text shall underscore text to be added and overstrike text to be deleted~~ When modifying rule text, all new text that is being added is underscored and all existing text that is being deleted is overstruck. (7-1-97)(7-1-10)T

**a.** In the case of amendment to a current rule, the desired amendments to text are made using legislative format. The effective date ~~shall be~~ is overstruck followed by parentheses surrounding eight (8) underscored spaces, flushed right. (7-1-93)(7-1-10)T

**b.** When an agency proposes to enact a new section within an existing rule, the entire proposed text is underscored. All effective dates are noted as parentheses surrounding eight (8) underscored spaces, flushed right. (7-1-93)

**c.** When an agency proposes to repeal a complete chapter, overstriking is not required. The Bulletin will note that the chapter has been “Repealed In Its Entirety.” (7-1-93)

**d.** When an agency proposes to adopt a complete chapter of rules, underscoring is not required. The effective date will be noted as parentheses surrounding eight (8) spaces, flushed right, after each block of text. (3-30-01)

**e.** Modifications to text appearing in the paragraph of descriptive references does not appear in legislative format. (7-1-97)

**102. UNIFORM NUMBERING OF RULES.**

In accordance with Section 67-5206(1)(a), Idaho Code, the coordinator must establish a uniform numbering system applicable to rules adopted by all agencies. (7-1-93)

**01. IDAPA Numbering.** The uniform numbering ~~system~~ schematic used to designate and identify individual rules is known as the "IDAPA" numbering system. For a complete citation, rule numbering is preceded with the term "IDAPA," followed by a two-digit numerical agency code followed by a period, a two-digit numerical division or title code followed by a period, and a two-digit numerical program or chapter code. For example, this chapter is numbered as follows: IDAPA 44.01.01. (~~3-30-01~~)(7-1-10)T

**02. Internal Numbering - Section Number.** All chapters of agency rules are divided into major sections identified by a three-digit number beginning with "000" and ending with "999." (~~7-1-93~~)(7-1-10)T

**03. Subdivision Numbers.** Three (3) sublevels, which further subdivide the chapter, are allowed following the major section code. (~~3-30-01~~)(7-1-10)T

**a.** The first ~~sub~~level subdivision, called a Subsection, shall be consists of a two-digit numeric code, beginning with "01." and, if needed, may go to three digits, i.e. "100." (~~3-30-01~~)(7-1-10)T

**b.** The second ~~sub~~level subdivision, called a Paragraph, shall be consists of a single-digit alphabetic code followed by a period beginning with the letter "a." and ending with "z." ~~On a case-by-case basis, the coordinator may allow additional characters f~~ For expansion of this sublevel, using a double-digit alphabetic code beginning with "aa." and ending with "zz." may be used. (~~3-30-01~~)(7-1-10)T

**c.** The third ~~sub~~level subdivision, called a Subparagraph, shall be a lower case roman numeral code, beginning with "i." (~~3-30-01~~)(7-1-10)T

**d.** On a case-by-case basis, the coordinator may allow additional sublevel divisions consisting of an alternating code of numbers and letters enclosed in parentheses. (~~3-30-01~~)(7-1-10)T

**04. Cross-Referencing.** In order to clarify intent or avoid repetition, references to other rules are allowed. Such references are divided as follows: (7-1-93)

**a.** Internal Reference/Citation. References to a section or sections within a chapter shall must provide a thorough notation of the identity of the text referenced. A citation to this section is "Paragraph 102.04.a. of these rules." Internal references may also utilize the complete legal citation using the complete IDAPA numbering system. A citation to this ~~section~~ paragraph is "IDAPA 44.01.01.102.04.a." (~~3-30-01~~)(7-1-10)T

**b.** External Reference/Citation. References outside the chapter shall must identify the complete legal citation using the IDAPA numbering system and shall must include the name of the agency, the name of the chapter being referenced and the complete legal citation of the chapter being referenced. (~~3-30-01~~)(7-1-10)T

**c.** External referencing of documents other than Idaho administrative rules shall must follow the provisions of Section 67-5229, Idaho Code, regarding incorporation by reference. (~~7-1-93~~)(7-1-10)T

**103. EXEMPTION FROM REGULAR RULEMAKING PROCEDURES.**

Pursuant to Section 67-5202(2), Idaho Code, the coordinator is authorized to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules. All proposed clerical revisions must be submitted to the coordinator for consideration and approval. (7-1-10)T

~~1034.~~ -- 599. (RESERVED).

**600. IDAHO ADMINISTRATIVE BULLETIN.**

The coordinator shall receive all documents required by the APA to be published in the Bulletin. (~~7-1-93~~)(7-1-10)T

**01. Information.** The Bulletin shall must contain specific information concerning the use of the

Bulletin, the rulemaking process in general, specific information concerning the documents being promulgated, and other information deemed necessary by the coordinator to describe the documents being published.

~~(7-1-93)~~(7-1-10)T

**02. Table of Contents.** Each issue of the Bulletin ~~shall~~ must contain a table of contents.  
~~(7-1-93)~~(7-1-10)T

**03. Cumulative Index.** A cumulative index ~~shall~~ must be published at least every three (3) months.  
~~(7-1-93)~~(7-1-10)T

**04. Documents to Be Published.** Such documents are identified in Section 67-5203(4), Idaho Code.  
(7-1-93)

**05. Other Documents.** Each issue of the Bulletin may include other reference-related documents as determined by the coordinator.  
(7-1-97)

**601. IDAHO ADMINISTRATIVE BULLETIN PUBLICATION SCHEDULE.**

Agencies ~~shall~~ must file all documents designated for publication in the Bulletin with the *Office of the Administrative Rules* coordinator. ~~Documents must be submitted no later than 5:00 p.m. on the filing date that is published in the "Bulletin Publication Schedule" in the preface of the Idaho Administrative Bulletin. A copy of the "Bulletin Publication Schedule" may be obtained by contacting the Office of the Administrative Rules Coordinator.~~ (7-1-99)

~~01. Time.~~ The All documents must be submitted no later than 5 p.m. on the closing date for agency filing date as published as listed in the "Bulletin Publication Schedule" in the preface of the *Idaho Administrative Bulletin* and the coordinator's website. Any documents filed after the closing date for agency filing will be published in the first available Bulletin, as determined by the coordinator.  
~~(7-1-99)~~(7-1-10)T

~~02. Date of Submission.~~ ~~Documents must be submitted by the closing date for agency filing as published in the "Bulletin Publication Schedule" in the preface of the Idaho Administrative Bulletin. All documents filed after the closing date shall be published at the discretion of the Office of Administrative Rules with the permission of the Administrative Rules Coordinator.~~ (7-1-99)

**602. -- 699. (RESERVED).**

**700. IDAHO ADMINISTRATIVE CODE.**

Pursuant to Section 67-5204, Idaho Code, the coordinator will annually publish a compilation of all final agency rules ~~in~~ publication to be known as the Idaho Administrative Code. The Code is a codification of all executive orders of the governor that have been published in the Bulletin and have not been rescinded, the text of all final rules, any legislative documents affecting a final agency rule, and all documents required by law to be published in the Code. No negotiated, proposed, or pending rules shall be included are published in the Code. Temporary rules that meet the requirements of Section 67-5226, Idaho Code, and that are in effect at the time of publication will be included are published in the Code. Each annual Code publication includes all codified rules approved as final at the end of each legislative session.  
~~(7-1-99)~~(7-1-10)T

~~**701. IDAHO ADMINISTRATIVE CODE PUBLICATION SCHEDULE.**~~

~~All documents filed in accordance with Section 67-5224(5), 67-5224(6), and 67-5224(7), Idaho Code, and IDAPA 44.01.01, will be published in the Code. Other documents required for publication in the Code must be received by the coordinator or the Office of the Administrative Rules Coordinator no later than June 1 of each year.~~ (7-1-99)

~~**7021. -- 799. (RESERVED).**~~

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1001

#### 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 39-114, 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:** The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by June 28, 2010.

**Wednesday, June 30, 2010 - 9:30 a.m. to 12:30 p.m. MDT**

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
Conference Room A  
1410 N. Hilton, Boise, Idaho**

**PRELIMINARY DRAFT:** By June 2, 2010, a preliminary draft of the rule can be obtained at [http://www.deq.idaho.gov/rules/air/58\\_0101\\_1001\\_negotiated.cfm](http://www.deq.idaho.gov/rules/air/58_0101_1001_negotiated.cfm) or by contacting Paula Wilson at [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov), (208)373-0418.

**DESCRIPTIVE SUMMARY:** The new crop residue burning rules have been in effect since 2008. Upon completion of the second year of burning under the new rules, it became apparent that some smaller crop residue burns could and should be regulated under the rules differently than those large scale high fuel content burns. This rulemaking docket will address small fuel burns including, but not limited to, mint blanching, spot burns, burns of 5 acres or less, broken bales, and 5 to 10 acre pasture burns. Burn approval criteria and general provisions may also be revised.

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. Farmers desiring to burn crop residue, members of the regulated community who may be subject to Idaho's air quality rules as well as special interest groups, Idaho State Department of Agriculture, tribes, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in participating in this rulemaking.

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

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 July 7, 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 30th day of April, 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](mailto:paula.wilson@deq.idaho.gov)



## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.20 - RULES FOR ADMINISTRATION OF DRINKING WATER LOAN PROGRAM

DOCKET NO. 58-0120-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule will become final and effective if approved during the First Regular Session of the Sixty-first Idaho Legislature by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution. This rule was adopted as a temporary rule by the Board in November 2009 and is currently effective.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending fee rule. This action is authorized by Chapters 1 and 76, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, December 2, 2009, Vol. 09-12, pages 180 through 186. DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at [http://www.deq.idaho.gov/rules/drinking\\_water\\_loans/58\\_0120\\_0901\\_pending.cfm](http://www.deq.idaho.gov/rules/drinking_water_loans/58_0120_0901_pending.cfm) or by contacting the undersigned.

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

**FEE SUMMARY:** Unless this fee is implemented in FY 2010, DEQ will lose the capacity to assist drinking water systems' facility planning efforts and may have to curtail administrative oversight of the loan program due to shrinking administrative funds. Imposition of the fee is authorized by Sections 39-119 and 39-3627(4), Idaho Code.

**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:** For assistance on technical questions concerning this rulemaking, contact Tim Wendland at (208)373-0439 or [tim.wendland@deq.idaho.gov](mailto:tim.wendland@deq.idaho.gov).

Dated this 26th day of April, 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](mailto:paula.wilson@deq.idaho.gov)

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#### DOCKET NO. 58-0120-0901 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-12, December 2, 2009, pages 180 through 186](#).

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.

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixty-first Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107 and 67-5206, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, December 2, 2009, Vol. 09-12, pages 187 through 193. DEQ received no public comments; however, the proposed rule has been revised at Sections 052, 354, 355, 730, 740, 750, 791, and 801 for consistency with revisions made to the Idaho Administrative Procedure Act (APA) under House Bill 555. Under House Bill 555, the 2010 Idaho Legislature revised the APA so that the time periods for seeking reconsideration or judicial review of an agency action begin to run when the order is served upon the parties rather than the date the order is issued. The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at [http://www.deq.idaho.gov/rules/admin/58\\_0123\\_0901\\_pending.cfm](http://www.deq.idaho.gov/rules/admin/58_0123_0901_pending.cfm) or by contacting the undersigned.

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule does regulate an activity not regulated by the federal government. The federal government does not regulate administrative procedures for the state of Idaho; therefore, the rule revisions are not broader in scope or more stringent than federal law or regulations. This rule governs administrative procedures and is not a rule based on science or that proposes a standard necessary to protect human health or the environment. Therefore, the requirements of Section 39-107D(2) and (3), Idaho Code, are not applicable.

**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:** For assistance on technical questions concerning this rulemaking, contact Paula Wilson at [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov), (208)373-0418.

Dated this 26th day of April, 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](mailto:paula.wilson@deq.idaho.gov)

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DOCKET NO. 58-0123-0901 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.  
*Italicized text that is underscoring is new text that has been added to the pending rule.*

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 09-12, December 2, 2009, pages 187 through 193.

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 58-0123-0901

**052. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER.**

**02. Content.** The Board's order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-15-02)

***Paragraph 052.02.c.***

**c.** ~~This appeal~~ The petition for judicial review must be filed within twenty-eight (28) days of the service date of the declaratory ruling. See Section 67-5273, Idaho Code. (3-15-02)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**3534. GRANTING PETITIONS TO INTERVENE.**

***Subsection 354.02***

**02. Intervenor Response.** Within fourteen (14) days of the service date of the order granting the petition to intervene, the intervenor shall file a response to the petition initiating the contested case. The response shall be in the form and content set out in Subsection 212.02. ( )

***Section 355***

**355. REVIEW OF ORDERS GRANTING OR DENYING INTERVENTION.**

Any party may petition the Board to review an order granting or denying intervention. Petitions for review shall be filed within fourteen (14) days ~~after of the service date~~ of the order. Responses shall be filed within fourteen (14) days after service of the petition for review. The Board may schedule oral argument in the matter before issuing a decision. (3-20-04)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**730. PRELIMINARY ORDERS.**

**02. Content.** Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-15-02)

**Paragraph 730.02.b.**

b. Within fourteen (14) days ~~after of the service~~ date of this preliminary order, any party may ~~appeal to the Board~~ take exceptions to any part of this preliminary order by filing with the hearing coordinator a petition for review of the preliminary order ~~or exceptions to any part of the preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Board.~~ Otherwise, this preliminary order will become a final order of the Board. The basis for review must be stated in the petition. The Board may review the preliminary order on its own motion. (3-15-02)(\_\_\_\_)

731. -- 739. (RESERVED).

740. FINAL ORDERS.

02. **Content.** Every final order issued by the Board must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-15-02)

**Paragraph 740.02.c.**

c. ~~An appeal~~ The petition for judicial review must be filed within twenty-eight (28) days of the service date of this final order. See Section 67-5273, Idaho Code. The filing of ~~an appeal to~~ a petition for judicial review in district court does not itself stay the effectiveness or enforcement of the order under ~~appeal~~ review. (3-15-02)(\_\_\_\_)

741. -- 749. (RESERVED).

**Section 750**

750. **ORDER NOT DESIGNATED.**

If an order is not designated as recommended, preliminary or final at its ~~release~~ issuance, but is designated as recommended, preliminary or final after its ~~release~~ issuance, its effective date for purposes of ~~appeal~~ judicial review is the service date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. (3-15-02)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

791. **~~NOTICE OF APPEAL~~ PETITION FOR JUDICIAL REVIEW.**

~~The notice of appeal must be filed with the hearing coordinator as set out in Section 008 and with the district court and served on all parties.~~ (3-15-02)

**Subsection 791.02**

02. **Filing Deadline.** Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final order in a contested case must be filed within twenty-eight (28) days of the service date of the final order. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

801. BOARD RESPONSE TO PETITION.

02. Denial. If the petition is denied, the written denial shall state: (3-15-02)

*Paragraph 801.02.c.*

c. ~~This appeal~~ The petition for judicial review must be filed within twenty-eight (28) days of the service date of this denial of the petition to initiate rulemaking. ~~(3-15-02)~~(    )

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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 23, 2010 unless otherwise listed.  
(Temp & Prop) indicates the rule is both temporary and proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

#### **IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION PO Box 83720, Boise, ID 83720-0027**

**08-0202-1001, Rules Governing Uniformity.** Requires all individuals seeking the Standard Elementary Certificate on or after July 1, 2013 to obtain a subject area endorsement.

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

**16-0305-1001, Eligibility for Aid to the Aged, Blind and Disabled (AABD).** (Temp & Prop) In compliance with HB 723, changes cap cash payments for all living arrangements, including: Room and Board, Semi-Independent Group Residential Facility (SIGRF), Assisted Living or Residential Care Facility (RALF), Certified Family Home (CFH), and Essential Persons who provide services in the participant's own home; limit AABD cash only to participants who receive SSI payments; and align benefits for the DD Waiver participants with the A&D Waiver participants living in CFHs and RALFs.

**\*16-0737-1001, Children's Mental Health Services.** (Temp & Prop) (\*PH) Allows department to limit and prioritize Children's Mental Health Services, including eligibility, and focus the available resources on those who have the greatest clinical and financial needs.

#### **IDAPA 35 - STATE TAX COMMISSION PO Box 36, Boise, ID 83722-0410**

**35-0105-1001, Idaho Motor Fuels Tax Administrative Rules.** Amends Rule 130 to notify fuel distributors that ethanol, natural gasoline, and gasoline blend stocks are received when the fuels are imported into Idaho, removed from an Idaho pipeline terminal, or removed from an Idaho ethanol production facility; provides a method for distributors to deduct the gallons of ethanol placed into storage inside an Idaho pipeline terminal; states that motor fuels tax and transfer fees are due when ethanol, natural gasoline, and gasoline blend stocks are received.

#### **IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR PO Box 83720, Boise, ID 83720-0306**

**44-0101-1001, Rules of the Administrative Rules Coordinator.** Implements statutory changes that clarify and modify certain definitions; changes references to printed and bound volumes of the Code and Bulletin to electronic-only publications; adjusts subscription rates; eliminates obsolete and clarify ambiguous language; additional changes conform rule to current style requirements.

#### **THE FOLLOWING TEMPORARY RULES HAVE BEEN ADOPTED:**

**Department of Agriculture**  
**02-0421-1001, Rules Governing the Importation of Animals**



**State Tax Commission**  
35-0103-1001, Property Tax Administrative Rules

**SCHEDULED NEGOTIATED RULEMAKING MEETINGS:**

**Board of Licensure of Professional Engineers and Professional Land Surveyors**  
10-0101-1001, Rules of Procedure  
10-0102-1001, Rules of Professional Responsibility

**Department of Environmental Quality**  
58-0101-1001, Rules for the Control of Air Pollution in Idaho

Please refer to the Idaho Administrative Bulletin, **June 2, 2010, Volume 10-6**, for notices and text of all rulemakings, public hearings and negotiated meeting schedules, Governor's executive orders, and agency contact information.

*Issues of the Idaho Administrative Bulletin can be viewed at [www.adm.idaho.gov/adminrules/](http://www.adm.idaho.gov/adminrules/).*

Submit written inquiries to the Office of the Administrative Rules Coordinator, Dept. of Administration, PO Box 83720, Boise, ID 83720-0306 or call 208-332-1820.

**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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