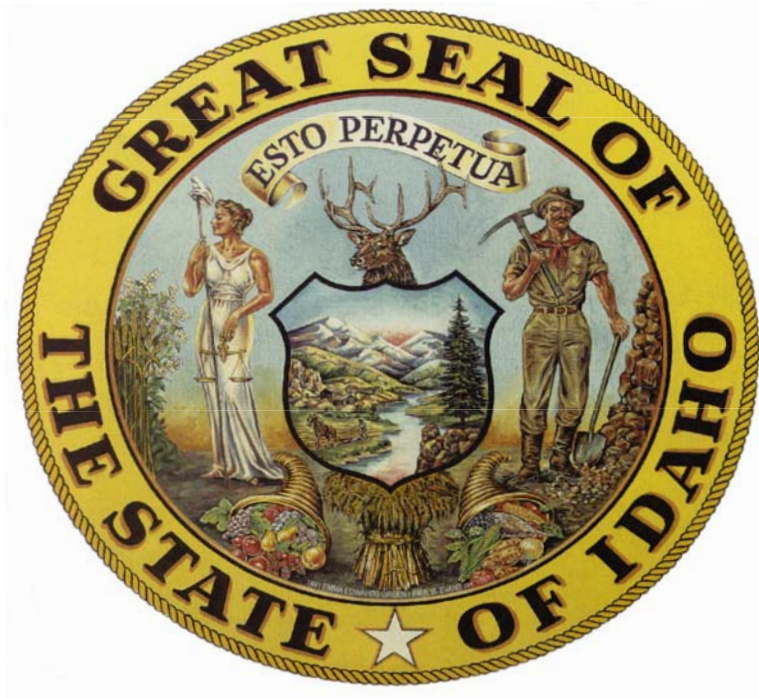


IDAHO ADMINISTRATIVE BULLETIN

August 4, 2010 -- Volume 10-8

Idaho Department of Administration
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Preface

The Idaho Administrative Bulletin is a monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rulemaking documents in Idaho. All official rulemaking notices, official rule text, executive orders of the Governor, all legislative documents affecting rules, and any other documents required by law are published in the Bulletin.

State agencies are required to provide public notice of all proposed rulemaking actions and must invite public input once proposed rulemaking has been initiated. The public receives notice of proposed rulemaking actions through the Idaho Administrative Bulletin and a Public Notice (legal notice) that publishes in specific newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties can submit written comments to the agency or request public hearings of the agency if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual "Notice of Rulemaking" for each proposed rule that is published in the Bulletin. After the comment period closes, the agency considers fully all information submitted regarding the proposed rule. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin **09-1** refers to the first Bulletin issued in calendar year **2009**; Bulletin **10-1** refers to the first Bulletin issued in calendar year **2010**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **10-1** refers to January 2010; Volume No. **10-2** refers to February 2010; and so forth. Example: The Bulletin published in January 2010 is cited as Volume **10-1**. The December 2009 Bulletin is cited as Volume **09-12**.

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.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho's 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 - Negotiated Rulemaking” in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed or temporary rule, or both.

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 Rulemaking - Proposed Rule” 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) 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 when the pending rule will become effective; provided, however, that notwithstanding Section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or enforceability of the rule.
- d) the text of the proposed rule prepared in legislative format;
- e) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- f) 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;
- g) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- h) the deadline for public (written) comments on the proposed rule.

All proposed rulemakings that are submitted for publication in the Bulletin that would impose a fee or charge must be accompanied by a cost/benefit analysis that is prepared by the agency. This cost/benefit analysis must estimate, as reasonably as possible, the costs to the agency to implement the rule and the estimated costs that would be borne by citizens or the private sector. This analysis is filed with the Director of LSO who then forwards it to the appropriate germane joint subcommittee assigned to review the promulgating agency’s proposed rules.

When incorporating by reference, the notice of proposed rulemaking must include a brief synopsis detailing the need to incorporate by reference any additional materials into the rule. The agency must also provide information regarding access to the incorporated materials. At a minimum, and when available, the agency must provide an electronic link to the documents that can be accessed on a website or post this information on its own website, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s website.

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 (terminate) a rulemaking after the publication of a proposed rule if it decides, for whatever reason, not to proceed further to finalize the rulemaking. The publication of a “Notice of Vacation of Proposed Rulemaking” in the Bulletin officially 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 one or more of the above legal criteria and the governor finds it is necessary that a rule become effective before it has been submitted to the legislature for review and approval and without allowing for any public input, the agency may proceed and adopt a temporary rule. The law allows that agency to make a temporary rule immediately effective upon adoption. 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 extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

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, will 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 Rulemaking Pending Rule." 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 and a statement that the pending rule may be rejected, amended or modified by concurrent resolution of the legislature;
- d) an identification of any portion of the rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;
- (e) the specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and
- (f) 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 when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or

accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

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

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, 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 Code - annual subscription on CD-ROM. The Code is an annual compilation of all final administrative rules and all enforceable temporary rules and also includes all executive orders of the Governor that have published in the Bulletin, all legislative documents affecting rules, a table of contents, reference guides, and a subject index.

The Idaho Administrative Bulletin - annual subscription available on individual CD-ROM sent out monthly. The Bulletin is an official monthly publication of the State of Idaho and is available for purchase on CD-ROM only. Yearly subscriptions or individual CD-ROM's are available for purchase.

Internet Access - The Administrative Code and Administrative Bulletin, and many other rules-related documents are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

IDAPA 38.05.01.200.02.c.ii.

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

“**38.**” refers to the Idaho Department of Administration

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

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

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

“**02.**” refers to Subsection 200.02.

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

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

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a “DOCKET NUMBER.” The “Docket Number” is a series of numbers separated by a hyphen “-”, (**38-0501-1001**). 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. 38-0501-1001”

“**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**).

“**1001**” 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 2010**. A subsequent rulemaking on this same rule chapter in calendar year 2010 would be designated as “**1002**”. The docket number in this scenario would be 38-0501-**1002**.

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 2010

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
10-1	January 2010	*November 13, 2009	January 6, 2010	January 27, 2010
10-2	February 2010	January 8, 2010	February 3, 2010	February 24, 2010
10-3	March 2010	February 5, 2010	March 3, 2010	March 25, 2010
10-4	April 2010	March 5, 2010	April 7, 2010	April 28, 2010
10-5	May 2010	April 2, 2010	May 5, 2010	May 26, 2010
10-6	June 2010	May 7, 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	**August 27, 2010	October 6, 2010	October 27, 2010
10-11	November 2010	October 1, 2010	November 3, 2010	November 24, 2010
10-12	December 2010	November 5, 2010	December 1, 2010	December 22, 2010

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2011

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
11-1	January 2011	*November 19, 2010	January 5, 2011	January 26, 2011
11-2	February 2011	January 14, 2011	February 2, 2011	February 23, 2011
11-3	March 2011	February 11, 2011	March 2, 2011	March 23, 2011
11-4	April 2011	March 11, 2011	April 6, 2011	April 27, 2011
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11-9	September 2011	August 5, 2011	September 7, 2011	September 28, 2011
11-10	October 2011	**August 31, 2011	October 5, 2011	October 26, 2011
11-11	November 2011	October 7, 2011	November 2, 2011	November 23, 2011
11-12	December 2011	November 4, 2011	December 7, 2011	December 28, 2011

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

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

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02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1001

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, 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 August 18, 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:

To adopt by reference the 2011 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. NIST documents are available online at <http://ts.nist.gov/WeightsAndMeasures> and ASTM documents may be purchased online at <http://astm.org>.

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, informal negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The reason to update this reference document is to maintain uniformity throughout western state jurisdictions and to update the local availability section with the current physical and internet addresses.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kevin Merritt, Section Manager at (208)332-8692.

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 August 25, 2010.

DATED this 23rd day of June, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0214-1001

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 2010~~1~~ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. ~~(3-29-10)~~(____)

02. Required Reference Materials for Checking Prepackaged Commodities. The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)

03. Specifications for Diesel Fuel and Biodiesel Fuel. American Society of Testing and Materials (ASTM) D975-07a, "Standard Specification for Diesel Fuel Oils," and ASTM D6751-07a, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels," intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (4-2-08)

04. Specifications for Gasoline. American Society of Testing and Materials (ASTM) D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel", dated October 17, 2007, is hereby incorporated by reference and is the specification for gasoline. (5-8-09)

05. Local Availability. Copies of the incorporated documents are on file with the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712, ~~or~~. Copies of NIST documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading on the internet by going to <http://ts.nist.gov/WeightsAndMeasures>. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428. Copies are available for purchase on the internet by going to <http://astm.org>. ~~(5-8-09)~~(____)

IDAPA 02 - DEPARTMENT OF AGRICULTURE RULES
02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS
DOCKET NO. 02-0408-1001
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 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 37-332f, -37405, 37-516, 37-708, and 37-803, 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 August 18, 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 will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08.

To adopt the most current requirements of the U.S. Department of Health and Human Services, Public Health Service, and Food and Drug Administration for interstate shipments of Grade A milk and milk products, this rulemaking will also incorporate the most current version of the documents currently incorporated by reference in IDAPA 02.04.08, IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11. The latest version of the following documents will be incorporated by reference into IDAPA 02.04.08: 1) Grade "A" Pasteurized Milk Ordinance, 2) Methods of Making Sanitation Ratings of Milk Shippers, 3) Evaluation of Milk Laboratories, and 4) Procedures Governing the Cooperative State Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

The bacteria plate count and the somatic cell count standards of raw milk for pasteurization set forth in the Pasteurized Milk Ordinance will not be incorporated by reference in the proposed rule. Section 37-314, Idaho Code, requires that the bacteria plate count standard will be set at 80,000 per mL, and this will be the standard set forth in IDAPA 02.04.08. As for the somatic cell count standard, the Idaho Dairymen's Association ("IDA") requested that the Idaho State Department of Agriculture amend the existing somatic cell count standard in an effort to meet standards for international trade, as well as reduce risk of residues and potential pathogens, and enhance quality standards of milk and dairy products. The IDA requested that the somatic cell count standard be set at 500,000 per mL, which is closer to the international standard of 400,000 per mL. The new somatic cell count standard will be more stringent than the current standard of 750,000 per mL.

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

This is a temporary and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The four documents incorporated by reference in this chapter set forth the requirements for interstate shipment of Grade A milk and Grade A milk products.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2010.

DATED this 28th day of June, 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500 / Fax: (208) 332-4062

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 02-0408-1001

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, 5, 7, and 8, Idaho Code.

(~~4-8-94~~)(10-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The Idaho State Department of Agriculture incorporates by reference the *U.S. Department of Health and Human Services Public Health Service Food and Drug Administration "Grade 'A' Pasteurized Milk Ordinance," 2003 Revision* following documents in this chapter. Copies of ~~this~~ these documents may be obtained at the Idaho State Department of Agriculture central office.

(~~4-6-05~~)(10-1-10)T

01. Grade “A” Pasteurized Milk Ordinance. The Grade “A” Pasteurized Milk Ordinance, 2009 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM209789.pdf>. (10-1-10)T

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, 2007 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM197074.pdf>. (10-1-10)T

03. Methods of Making Sanitation Ratings of Milk Shippers. The Methods of Making Sanitation Ratings of Milk Shippers, 2009 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/ProductSpecificInformationMilkSafetyNationalConferenceonInterstateMilkShipmentsNCIMSMModelDocumentsUCM199077.pdf>. (10-1-10)T

04. Interstate Milk Shipments. The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2009 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at <http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM198446.pdf>. (10-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

007. REGULATORY FRAMEWORK.

All Grade A Milk and Grade A Milk Products shall comply with the provisions set forth in the documents incorporated by reference in this chapter. (10-1-10)T

008. MILK QUALITY STANDARDS.

The following standards shall be substituted for the bacterial limit standard and the somatic cell count standard for Grade A raw milk and milk products for pasteurized, ultra-pasteurization or aseptic processing in Section 7 of the Grade “A” Pasteurized Milk Ordinance. (10-1-10)T

01. Bacterial Limit Standard. The bacterial limit standard is eighty thousand (80,000) per mL. (10-1-10)T

02. Somatic Cell Count Standard. The somatic cell count standard is five hundred thousand (500,000) per mL. (10-1-10)T

0079. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.09 - RULES GOVERNING METHODS OF MAKING SANITATION RATINGS OF MILK SHIPPERS

DOCKET NO. 02-0409-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 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 37-332f, 37-405, 37-516, 37-708, and 37-803, 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 August 18, 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 will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, "Rules Governing Methods of Making Sanitation Ratings of Milk Shippers"; IDAPA 02.04.10, "Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers"; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories", will be consolidated into IDAPA 02.04.08, "Rules Governing Grade A Milk and Milk Products". IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.09 will be repealed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This is a temporary and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Chief Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2010.

Signed this 28th day of June, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712

P.O. Box 790, Boise, ID 83701-0790
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IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.10 - PROCEDURES GOVERNING THE COOPERATIVE STATE-PUBLIC HEALTH SERVICE/FOOD AND DRUG ADMINISTRATION PROGRAM FOR CERTIFICATION OF INTERSTATE MILK SHIPPERS

DOCKET NO. 02-0410-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 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 37-332f, 37-405, 37-516, 37-708, and 37-803, 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 August 18, 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 will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, "Rules Governing Methods of Making Sanitation Ratings of Milk Shippers"; IDAPA 02.04.10, "Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers"; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories", will be consolidated into IDAPA 02.04.08, "Rules Governing Grade A Milk and Milk Products". IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.10 will be repealed.

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

This is a temporary and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Chief Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2010.

Signed this 28th day of June, 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500
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IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.11 - RULES GOVERNING EVALUATION OF MILK LABORATORIES
DOCKET NO. 02-0411-1001 (CHAPTER REPEAL)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 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 37-332f, 37-405, 37-516, 37-708, and 37-803, 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 August 18, 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 will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, "Rules Governing Methods of Making Sanitation Ratings of Milk Shippers"; IDAPA 02.04.10, "Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers"; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories", will be consolidated into IDAPA 02.04.08, "Rules Governing Grade A Milk and Milk Products". IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.11 will be repealed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This is a temporary and proposed rulemaking with an effective date of October 1, 2010, because new milk quality standards for international trade standards will be in effect on October 1, 2010. The IDA requested that the amendments to the state's Grade A milk rule be in effect on October 1, 2010. These changes will benefit the dairy industry and consumers of milk and milk products. The changes to the milk quality standards will prepare the dairy industry to meet the more stringent milk quality requirements in the international market.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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, Idaho Code, a Notice of Intent to Promulgate Rules was not published, however the Department met on numerous occasions with stakeholders within Idaho's dairy industry who agree upon and advocate for the proposed changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Chief Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2010.

Signed this 28th day of June, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712

P.O. Box 790, Boise, ID 83701-0790
Phone: (208) 332-8500
Fax: (208) 332-4062

IDAPA 04 - OFFICE OF THE ATTORNEY GENERAL

04.11.01 - IDAHO RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL

DOCKET NO. 04-1101-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of these temporary rules is July 1, 2010. These permanent rules are proposed to become effective upon the adjournment of the 2011 Idaho Legislature.

AUTHORITY: The Attorney General has authority to adopt rules of administrative procedure under section 67-5206(2)-(4), Idaho Code. These temporary rules are adopted pursuant to Section 67-5226, Idaho Code. These permanent rules are proposed pursuant to Section 67-5221(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 August 27, 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:

These temporary rules are adopted and permanent rules are proposed to implement three Session Laws enacted by the 2010 Legislature that affect administrative procedure. All three Sessions Laws became effective on July 1, 2010.

1. 2010 House Bill 555, 2010 Idaho Session Law, Chapter 255, amended Sections 67-5243, 67-5245, 67-5246, 67-5248 and 67-5773, Idaho Code, to address service of agency orders. The temporary rules implement this session law by amending the Idaho Rules of Administrative Procedure (IRAP) to provide a definition of service of agency orders and by modernizing the IRAP to provide for electronic service by agencies and parties. Amendments to Rules 5, 55 and 303.
2. 2010 House Bill 421, 2010 Idaho Session Law, Chapter 29, amended Section 12-117, Idaho Code, to provide for award of costs and fees by administrative agencies. The temporary rules implement this session law by providing a procedural rule for agencies to use to consider requests to award costs and fees. New Rule 741.
3. House Bill 614aaS, 2010 Idaho Session Law, Chapter 280, amended Sections 67-5223 and 67-5229, Idaho Code, to address rules that impose or increase agency fees and rules that incorporate codes, standards or other rules by reference. The temporary rules implement this session law by amending the existing rules about rulemaking procedures to bring them into conformity with this new law. Amendment to Rule 830.

TEMPORARY RULE JUSTIFICATION: Pursuant to section 67-5226(1)(b), Idaho Code, the Governor found that the temporary adoption of this rule is appropriate because these rules implement changes to governing state law that will take effect on July 1, 2010.

FEES: The following is a specific description of the fee or charge imposed or increased: No fees or charges are being imposed through this rulemaking. No gubernatorial findings regarding fees are applicable.

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

These rules have no significant fiscal impact. It is possible that they may reduce agencies' mailing costs for service of orders if electronic service is used instead.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need to put temporary rules in place by July 1, 2010.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: Persons seeking technical assistance on these temporary and proposed rules may contact Michael S. Gilmore at (208) 334-4130 or at mike.gilmore@ag.idaho.gov. Interested persons may provide written comment on these rules by mail to Office of the Attorney General, Statehouse, PO Box 83720, Boise, Idaho 83720-0010. Mailed comments should be to attention of: Michael S. Gilmore, Deputy Attorney General.

Comments may also be e-mailed to mike.gilmore@ag.idaho.gov. The Office of the Attorney General does not anticipate scheduling an oral presentation on these rules because they are procedural rules, not substantive rules for which Section 67-5222(2), Idaho Code, creates certain rights for oral presentation. The deadline for written comment is September 10, 2010.

Dated this 15th day of June, 2010.

Michael S. Gilmore
Deputy Attorney General
Statehouse
PO Box 83720
Boise, Idaho, 83720-0010

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 04-1101-1001

005. DEFINITIONS (RULE 5).

As used in this chapter: (7-1-93)

01. Administrative Code. The Idaho Administrative Code established in Chapter 52, Title 67, 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. Agency action means: (7-1-93)

a. The whole or part of a rule or order; (7-1-93)

b. The failure to issue a rule or order; or (7-1-93)

c. An agency's performance of, or failure to perform, any duty placed on it by law. (7-1-93)

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 established in Chapter 52, Title 67, Idaho Code. (7-1-93)
- 06. Contested Case.** A proceeding which results in the issuance of an order. (7-1-93)
- 07. Coordinator.** The administrative rules coordinator prescribed in Section 67-5202, Idaho Code. (7-1-93)
- 08. Document.** Any proclamation, executive order, notice, rule or statement of policy of an agency. (7-1-93)
- 09. Final Rule.** A rule that has been adopted by an agency under the regular rulemaking process and that is in effect. (7-1-97)
- 10. License.** The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (7-1-93)
- 11. Official Text.** The text of a document issued, prescribed, or promulgated by an agency in accordance with this chapter, and which is the only legally enforceable text of such document. ~~(7-1-93)~~(7-1-10)T
- 12. Order.** An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (7-1-93)
- 13. Party.** Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (7-1-93)
- 14. Pending Rule.** A rule that has been adopted by an agency under the regular rulemaking process (i.e., proposal of rule in Bulletin, opportunity for written comment or oral presentation, and adoption of rule in Bulletin) and remains subject to legislative review. (7-1-97)
- 15. Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (7-1-93)
- 16. Provision of Law.** The whole or a part of the state or federal constitution, or of any state or federal:
- a.** Statute; or (7-1-93)
 - b.** Rule or decision of the court. (7-1-93)
- 17. Proposed Rule.** A rule published in the bulletin as provided in Section 67-5221, Idaho Code. (7-1-97)
- 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. Rule.** The whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of Chapter 52, Title 67, Idaho Code, and that implements, interprets, or prescribes:
- a.** Law or policy, or (7-1-93)
 - b.** The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include: (7-1-93)

- i. Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; (7-1-93)
- ii. Declaratory rulings issued pursuant to Section 67-5232, Idaho Code; (7-1-93)
- iii. Intra-agency memoranda; or (7-1-93)
- iv. Any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with a rule. (7-1-93)

20. Rulemaking. The process for formulation, adoption, amendment or repeal of a rule. (7-1-93)

21. Service or Serving. The agency's or a party's delivery or distribution of official documents in a legally sufficient manner in a contested case proceeding to the parties to that proceeding and, if applicable, to any other persons required by statute, rule, order or notice to receive official documents. (7-1-10)T

22. Submitted for Review. A rule that has been provided to the legislature for review at a regular or special legislative session as provided in Section 67-5291, Idaho Code. (7-1-97)

23. Temporary Rule. A rule authorized by the governor to become effective before it has been submitted to the legislature for review and which expires by its own terms or by operation of law no later than the conclusion of the next succeeding regular legislative session unless extended or replaced by a final rule as provided in Section 67-5226, Idaho Code. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

055. SERVICE BY AGENCY (RULE 55).

01. Personal Service and Service by Mail. Unless otherwise provided by statute or these rules or the agency's rules, the officer designated by the agency to serve rules, notices, summonses, complaints, or orders issued by the agency may serve these documents by regular mail, or by certified mail, return receipt requested, to a party's last known mailing address or by personal service. (7-1-10)T

02. Electronic Service. If a party has appeared in a contested case or has not yet appeared but has consented or agreed in writing to service by facsimile transmission (FAX) or e-mail as an alternative to personal service or service by mail, and if authorized by statute, agency rule, notice or order, the officer designated to serve notices and orders in a contested case may serve those notices and orders by FAX or by e-mail in lieu of service by mail or personal service. (7-1-10)T

03. When Service Complete. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a State employee or State agency, or when there is an electronic verification that a facsimile transmission or an e-mail has been sent. (7-1-10)T

04. Persons Served. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (7-1-93)(7-1-10)T

05. Proof of Service. Every notice and order that the agency serves in a contested case must be accompanied by a proof of service stating the service date, each party or other person who was served, and the method of service. The agency may use a proof of service similar to those used by parties. See Rule 303. (7-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

303. PROOF OF SERVICE (RULE 303).

Every document that a party or interested persons file~~s~~s with and intend~~s~~s to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have this day _____ of _____, _____, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names and addresses)).
(by facsimile transmission to: (list names and FAX numbers))
(by e-mail to: (list names and e-mail addresses)).

(Signature)

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

(BREAK IN CONTINUITY OF SECTIONS)

741. ORDERS REGARDING COSTS AND/OR FEES (RULE 741).

01. Scope of Rule. This rule provides procedures for considering requests for costs and/or fees (including attorneys' fees) when an agency has authority to award costs and/or fees under other provisions of law. This rule is not a source of authority for awarding costs and/or fees. (7-1-10)T

02. Time for Filing for Costs and/or Fees Awarded in Final Order or Preliminary Order. Unless otherwise provided by statute or rule of the agency: (7-1-10)T

a. Minimum time for filing. When a final order or a preliminary order of the agency awards costs and/or fees to a party or to the agency itself, the agency must allow no fewer than fourteen (14) days from the service date of the final order or the preliminary order for the party to whom costs and/or fees were awarded or for the agency to file necessary papers (e.g., a memorandum of costs, affidavits, exhibits, etc.) quantifying and otherwise supporting costs or fees, or both, that will be claimed or a motion to extend the time to file for costs and fees. (7-1-10)T

b. Longer time allowed. The final order or preliminary order of the agency may extend the time to file papers for costs and/or fees beyond fourteen (14) days after the service date of the final order or preliminary order. (7-1-10)T

c. When time not set forth. If statute, rules of the agency, and the final order or preliminary order of the agency are silent on the time for filing for costs and/or fees the deadline for filing for costs and/or fees and/or for moving for an extension of the time to file for costs and fees is fourteen (14) days from the service date of the final order or preliminary order. (7-1-10)T

d. Untimely filing. The agency may exercise its discretion to consider and grant an untimely filing for costs and/or fees for good cause shown. (7-1-10)T

e. Contents of filing. No particular form for filing for costs and fees is required, but in the absence of a statute or rule providing for standard costs and/or fees the papers supporting a claim for costs and/or fees should ordinarily contain an affidavit or declaration under oath detailing the costs and/or fees claimed. (7-1-10)T

f. Supplemental filings. Paragraphs 741.02.a. through 741.02.e. of this rule do not prohibit a party or the agency from supplementing a filing for costs and/or fees. (7-1-10)T

03. Time for Petitioning for Costs and/or Fees When Costs and/or Fees Not Awarded in Final Order or Preliminary Order. Unless otherwise provided by statute: (7-1-10)T

a. Petition for reconsideration. When a final order or preliminary order of the agency does not award costs or fees to a party, and a party contends that the party is entitled to an award of costs and/or fees the party must file a petition for reconsideration addressing costs and/or fees within fourteen (14) days of the service date of the final order or preliminary order if the party wishes the agency to award costs and/or fees. (7-1-10)T

b. Combination with other issues. The petition for reconsideration on costs and/or fees may be combined with a petition for reconsideration on other issues. (7-1-10)T

c. Quantification not necessary. The petition for reconsideration can confine itself to the legal issue of entitlement to costs and/or fees and need not quantify the party's claimed costs and/or fees. However, the petition can be accompanied by papers quantifying the claimed costs and/or fees. (7-1-10)T

d. Legal authority. Every petition for reconsideration filed under Subsection 741.03 should cite the source of the agency's legal authority to award costs and/or fees. The agency may (but need not) deny a petition that omits a citation to legal authority to award costs and/or fees. (7-1-10)T

04. Oppositions. Unless otherwise provided by statute or rule of the agency, or extended by notice or order or the agency, oppositions to requests for costs and/or fees filed under Subsections 741.02 or 741.03 of this rule or motions to extend the time to oppose requests for costs and/or fees filed under Subsections 741.02 or 741.03 of this rule must be filed and served within fourteen (14) days of the service date of the petition to be timely. The agency may exercise its discretion to consider and grant an untimely opposition for good cause shown. (7-1-10)T

05. Orders Granting or Denying Costs and/or Fees. Every agency order granting or denying a request for costs and/or fees must cite the statutes or rules under which it is deciding the request for costs and/or fees. (7-1-10)T

~~741.2.~~ -- 749. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

830. REQUIREMENTS FOR NOTICE OF PROPOSED RULEMAKING (RULE 830).

01. Content of Notice of Proposed Rulemaking. Every notice of proposed rulemaking filed with the Coordinator for publication in the Bulletin shall include: (7-1-93)(7-1-10)T

~~a.~~ *A statement of the subject matter of the proposed rules;* (7-1-93)

~~ba.~~ A statement of the specific statutory authority *for the proposed rules* authorizing the rulemaking, including a citation to ~~a~~ the specific section of Idaho Code that has occasioned the rulemaking or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; (7-1-97)(7-1-10)T

~~eb.~~ A statement in nontechnical *terms language* of the substance of the proposed rules, *and, if the agency intends to take oral testimony on the proposed rule, the location, date and time of the oral presentations* including a specific description of any fee or charge being imposed or increased; (7-1-97)(7-1-10)T

~~ec.~~ A statement whether the agency intends to conduct oral presentations concerning the proposed rules, and, if not, what persons must do in order to request an oral presentation. *If the agency intends to take oral testimony on the proposed rule, the location, date and time of any public hearing must be included;* (7-1-93)(7-1-10)T

d. A specific description, if applicable, of any negative fiscal effect on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year in which the pending rule will become effective; (7-1-10)T

e. The mailing address to which written submissions comments and requests for public hearings concerning the proposed rules must be mailed; If the agency accepts comments and requests by facsimile transmission (FAX) or by e-mail, the FAX number or e-mail address, or both, at which comments may be delivered must be provided; (7-1-93)(7-1-10)T

f. The name and telephone number of an agency contact to whom technical questions about the proposed rules may be referred; (7-1-93)(7-1-10)T

g. The deadline date for the submission of written comment on the proposed rules and for asking submitting requests for an opportunity for an oral presentation concerning the proposed rules; (7-1-97)(7-1-10)T

h. A statement whether negotiated rulemaking has been conducted, and if not, why not; and (7-1-97)(7-1-10)T

i. ~~A summary of~~ The text of the proposed rules; and in legislative format. (7-1-97)(7-1-10)T

j. ~~The name, mailing address and telephone number of an agency contact person for the rulemaking;~~ (7-1-97)

~~**02.** Availability of Information. This information will be published in the Idaho Administrative Bulletin and be available directly from the agency. The notice of proposed rulemaking must be accompanied by a document showing the text of the proposed rule in legislative format.~~ (7-1-93)

02. Filing a Proposed Rulemaking for Publication in the Bulletin. (7-1-10)T

a. In all cases. The agency must file the information required in Subsection 830.01 of this rule with the Coordinator for publication in the Bulletin. The Coordinator is responsible for transmitting all required rulemaking documents to the Director of Legislative Services for analysis. (7-1-10)T

b. When fees are imposed or increased. In addition, if a fee or charge is imposed or increased through the proposed rulemaking, the agency must prepare and file with the Coordinator a statement of economic impact. This cost/benefit analysis must reasonably estimate the agency's costs to implement the rule and reasonably estimate the costs that would be borne by citizens, the private sector, or both, if the fees or charges being proposed are imposed by the rule. The cost/benefit analysis is not part of the proposed rulemaking notice and is not published in the Bulletin; it is a separate document that is submitted as part of the proposed rulemaking filing. (7-1-10)T

03. Incorporation by Reference. If an agency proposes to incorporate by reference into its rules any codes, standards or rules authorized by subsection 67-5229(1), Idaho Code, for incorporation by reference, the agency's notice of proposed rulemaking must also include the following information required by subsection 67-5229(2), Idaho Code: (7-1-10)T

a. Required information. A brief synopsis explaining why the incorporation is needed. (7-1-10)T

b. Electronic link or other access. A statement that notes where an electronic copy can be obtained or that provides an electronic link to the incorporated materials. If an electronic link is provided, at a minimum the link must be posted on the agency's website or included in the rule that is published in the Administrative Code on the Coordinator's website. If the incorporated material is copyrighted or otherwise unavailable, the rule must note where a copy of the incorporated materials may be viewed or purchased. (7-1-10)T

c. Identification of version or edition incorporated. The agency must provide all of the information required by Subsection 67-5229(2), Idaho Code, regarding identifying with specificity the version or edition of the code, standard or rule that is incorporated by reference, including, but not limited to, the date the document was published, approved or adopted, or became effective. (7-1-10)T

d. Example incorporations. The following are examples of the kind of specificity required by this Section and by Subsection 67-5229(2), Idaho Code: (7-1-10)T

i. 2009 Edition of the International Building Code, published by the International Code Council, available at <http://www.constructionbook.com/2009-international-building-code/>; (7-1-10)T

ii 2009 International Fire Code, published by International Code Council. Copies of the 2009 edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal. Copies of the 2009 International Fire Code are available for purchase from the International Code Council, Northwest Resource Center, PO Box 8004, Bellevue, WA 98004. (7-1-10)T

iii. Code of Federal Regulations, Title 40, Part 35 Environmental Protection Agency's Regulations for State and Local Assistance under the Clean Water Act, Subpart A (July 1, 2009), available at: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=40&PART=35&SUBPART=A&TYPE=PDF&YEAR=2009>;
and (7-1-10)T

iv. Federal Regulations adopted by the Drug Enforcement Agency, Department of Justice, published in the Federal Register; Amendments to Code of Federal Regulations, 21 CFR Part 1300, section 1300.01, Definitions of Schedule III Controlled Substances, 74 Federal Register No. 232, page 63609 (December 4, 2009), available at <http://www.nigc.gov/LinkClick.aspx?fileticket=YB0eC63Jh4%3D&tabid=57&mid=345>. (7-1-10)T

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES FOR CONTRACT PROVIDERS

DOCKET NO. 05-0101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(9), 20- 504(11), and 20-531(4), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 5, 2010, Idaho Administrative Bulletin, Vol. 10-5, pages 13 through 18.

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy S. Bishop, Deputy Attorney General, Idaho Department of Juvenile Corrections (208) 334-5100 ext.421.

DATED this 12th day of July, 2010.

Nancy S. Bishop
Deputy Attorney General
Idaho Dept. of Juvenile Corrections
954 W. Jefferson St.
PO Box 83720, Boise, Idaho 83720-0285
(208) 334-5100 Phone/ (208) 334-5120 Fax

DOCKET NO. 05-0101-1001 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-5, May 5, 2010, pages 13 through 18.

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 09 - DEPARTMENT OF LABOR

09.01.04 - UNEMPLOYMENT INSURANCE BENEFIT FRAUD AND OVERPAYMENT RULES

DOCKET NO. 09-0104-1001

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 72-1333, 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 August 18, 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 allows a waiver of repayment request to be made within fourteen days of the electronic transmission date of a Determination of Overpayment and allows a Determination of Overpayment to become final fourteen days after its electronic transmission; provides recourse for errors in electronic transmissions; adds required subsections for incorporation by reference, office hours, and public records act compliance; and makes technical corrections.

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

Compliance with deadlines in amendments to governing law or federal programs.

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:

There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to 72-1368(5), Idaho Code, that were passed during 2010 Legislative Session.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents being incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael Johnson 332-3570 ext. 3082.

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 August 25, 2010.

DATED this 1st day of July, 2010.

Michael Johnson, Bureau Chief
Department of Labor
317 W. Main Street
Boise, ID 83735
Phone 332-3570 ext. 3082
Fax 334-6125

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 09-0104-1001

004. INCORPORATED BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (7-1-10)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principle place of business of the Department of Labor is in Boise, Idaho. (7-1-10)T

01. Street Address and Hours. The office is located at 317 W. Main St., Boise, Idaho 83735 and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. (7-1-10)T

02. Mailing Address. The mailing address is: Department of Labor, 317 W. Main St., Boise, Idaho 83735. (7-1-10)T

03. Telephone. The telephone number of the office is (208) 332-3570. The facsimile number of the office is (208) 334-6455. (7-1-10)T

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (7-1-10)T

0047. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

011. (RESERVED).

0142. MATERIALITY, FRAUD DETERMINATIONS.

For purposes of Idaho Code Section 72-1366(12), a fact is material if it is relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Section 72-1366, Idaho Code. (3-19-99)

0123. -- 039. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

050. WAIVER OF REPAYMENT.

A Determination of Waiver will be made upon the written request of any interested party; except that an appeals examiner or the Industrial Commission may consider the issue of waiver of repayment on their own motion. A

request for a Determination of Waiver must be made within fourteen (14) days of the date of mailing of the Determination of Overpayment or Revised Determination of Overpayment, or within fourteen (14) days of the date of electronic transmission to an electronic-mail address approved by the Department of the Determination of Overpayment or Revised Determination of Overpayment. If a party establishes by a preponderance of the evidence that notice of a Determination of Overpayment or Revised Determination of Overpayment was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, or that notice of a Determination of Overpayment or Revised Determination of Overpayment was not transmitted to an electronic-mail address approved by the Department within fourteen (14) days of the date of transmission because of error on the part of the Department, the period for filing a timely request for Determination of Waiver shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1369, Idaho Code.

~~(3-19-99)~~(7-1-10)T

01. Waiver Determination. A Determination of Waiver shall become final unless, within fourteen (14) days after the date of mailing or of electronic transmission to an electronic-mail address approved by the Department, an appeal is filed with the Department of Labor. If a party establishes by a preponderance of the evidence that notice of a Determination of Waiver was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, or that notice of a Determination of Waiver was not transmitted to an electronic-mail address approved by the Department within fourteen (14) days of the date of transmission because of error on the part of the Department, the period for filing a timely request for an appeal shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1369, Idaho Code. ~~(3-19-99)~~(7-1-10)T

IDAPA 09 - DEPARTMENT OF LABOR

09.01.06 - RULES OF THE APPEALS BUREAU

DOCKET NO. 09-0106-1001

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 72-1333, 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 August 18, 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 provides recourse for errors in the electronic transmission of determinations or decisions; adds that notice of decisions may be served on interested parties by electronic transmission as allowed by Section 72-1368(5), Idaho Code; adds required subsections for incorporation by reference, office hours and public records act compliance; and to make technical corrections.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law or federal programs.

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: There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to 72-1368(5), Idaho Code, that were passed during 2010 Legislative Session.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Josh McKenna at 334-3570 ext. 3919.

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 August 25, 2010.

DATED this 1st day of July, 2010.

Josh McKenna, Benefits Bureau Chief
Department of Labor
317 W. Main Street, Boise, ID 83735
Phone 332-3570 ext. 3919 / Fax 334-6125

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 09-0106-1001

~~004. — 005.~~ ~~(RESERVED).~~

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (7-1-10)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principle place of business of the Department of Labor is in Boise, Idaho. (7-1-10)T

01. Street Address and Hours. The office is located at 317 W. Main St., Boise, Idaho 83735 and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday, and legal holidays. (7-1-10)T

02. Mailing Address. The mailing address is: Department of Labor, 317 W. Main St., Boise, Idaho 83735. (7-1-10)T

03. Telephone. The telephone number of the office is (208) 332-3570. The facsimile number of the office is (208) 334-6455. (7-1-10)T

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records. (7-1-10)T

0067. GENERAL PROVISIONS.

Department hearing officers shall be called appeals examiners. Ref. Section 72-1368(6) and Section 45-617(7), Idaho Code. (4-5-00)

0078. EXEMPTION FROM ATTORNEY GENERAL ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.

Pursuant to the provisions of Section 67-5206(5), Idaho Code, the procedures contained in Subchapter B, "Contested Cases," of the rules of administrative procedure promulgated by the Attorney General as IDAPA 04.11.01.100 through 799 do not apply to appeals within the Department. All appeals within the Department are governed solely by the provisions of the Employment Security Law, the Claims for Wages Act, these rules, and by the applicable federal law governing the Job Service Complaint System, the Job Training Partnership Act (JTPA) program, or other programs administered by the Department. (4-5-00)

0089. REASONS FOR EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES.

01. Proceedings to Determine the Rights to Unemployment Insurance Benefits and Tax Contribution. All proceedings to determine the rights to unemployment insurance benefits and tax contribution coverage are exempt from the contested case and judicial review provisions of the Idaho Administrative Procedure Act, pursuant Sections 72-1361 and 72-1368, Idaho Code. Appeals of complaint determinations and other decisions arising within the complaint system or other programs administered by the Department must be determined by the requirements of applicable federal law. The Department has promulgated its own rules of procedure for its appeals proceedings contained in IDAPA 09.01.06.001 et seq. All procedures affecting the rights to benefits and unemployment insurance coverage must be determined solely by the requirements of Employment Security Law. Such proceedings must be speedy and simple as required by the Federal Unemployment Tax Act and the Social Security Act. The Department determines that it can more adequately meet these requirements through promulgating its own rules rather than relying upon the rules applicable to other state agencies. (4-5-00)

02. Claims for Wages Are Exempt. All proceedings to determine claims for wages are exempt from the contested case provisions of the Idaho Administrative Procedure Act pursuant to Section 45-617(2), Idaho Code. (4-5-00)

~~009~~**10. -- 011. (RESERVED).**

012. FILING OF AN APPEAL.

01. Filing of an Appeal Pursuant to the Employment Security Law. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination, redetermination or decision of the Department. The appeal may be filed by delivering it, or faxing it, to any Job Service office or to the Appeals Bureau of the Department, 317 W. Main Street, Boise, Idaho 83735-0720. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by a Job Service office or the Appeals Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by a Job Service office or the Appeals Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Job Service office or to the Appeals Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735-0720. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the envelope containing the appeal, unless a party establishes by a preponderance of the evidence that but for error by the U.S. Postal Service, the envelope would have been postmarked within the period for timely appeal. If such a postal error is established, the appeal shall be deemed to be timely filed. Ref. Section 72-1368(6), Idaho Code. (5-3-03)

02. Filing of an Appeal Pursuant to the Claims for Wages Act. An appeal shall be in writing, signed by the appellant or the appellant's representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or revised determination of the Department. The appeal may be filed by personal delivery, by mail, or by fax to the Wage and Hour Section of the Department at the address indicated on the Wage Claim Determination. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark. A faxed appeal that is received by the Wage and Hour Section by 5 p.m. on a business day shall be deemed filed on that date. A faxed appeal that is received by the Wage and Hour Section on a weekend, holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. Ref. Section 45-617(6), Idaho Code. (4-5-00)

03. Date of Mailing. ~~The "Date of Mailing" or "Date Mailed."~~ The date indicated on Department determinations, revised determinations, redeterminations and decisions as the "Date of Mailing" or "Date Mailed" shall be presumed to be the date the document was deposited in the United States mail, or the date the document was electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, unless shown otherwise by a preponderance of competent evidence. ~~(4-5-00)~~(7-1-10)T

013. -- 016. (RESERVED).

017. EFFECT OF POSTAL SERVICE DELAY OR ERROR.

01. Department Determinations. (7-1-10)T

a. If a party establishes by a preponderance of the evidence that notice of a Department determination was not delivered to the party's last known address within fourteen (14) days of mailing, as provided by the Employment Security Law in Sections 72-1368(3) and (5), Idaho Code, and by the Claims for Wages Act in Sections 45-617(4) and (5), Idaho Code, because of delay or error by the U.S. Postal Service, the period for filing a timely appeal shall be deemed to have been fourteen (14) days from the date of actual notice. (4-5-00)

b. If a party establishes by a preponderance of the evidence that notice of a Department determination was not transmitted electronically to an electronic-mail address approved by the Department as provided by the Employment Security Law in Sections 72-1368(3) and (5), Idaho Code, because of error on the part of the Department, the period for filing a timely appeal shall be deemed to have been fourteen (14) days from the date of actual notice. (7-1-10)T

02. Decisions of the Appeals Examiner. (7-1-10)T

a. If a party establishes by a preponderance of the evidence that notice of a decision by an appeals

examiner was not delivered to the party's last known address within ten (10) days of mailing, as provided by the Employment Security Law in Sections 72-1368(5) and (6), Idaho Code, and by the Claims for Wages Act in Sections 45-617(5) and (7), Idaho Code, because of delay or error by the U.S. Postal Service, the period for filing a timely application for rehearing shall be deemed to have been ten (10) days from the date of actual notice. If it is established by a preponderance of the evidence that notice of a decision was not delivered to the party's last known address within fourteen (14) days of mailing because of delay or error by the U.S. Postal Service, the period for filing a timely claim for review with the Industrial Commission under the Employment Security Law shall be deemed to have been fourteen (14) days from the date of actual notice. Ref. Section 72-1368 (5) and (6) and Section 45-617(7), Idaho Code. (4-5-00)

b. If a party establishes by a preponderance of the evidence that notice of a decision by an appeals examiner was not transmitted electronically to an electronic-mail address approved by the Department as provided by the Employment Security Law in Sections 72-1368(5) and (6), Idaho Code, because of error on the part of the Department, the period for filing a timely application for rehearing shall be deemed to have been ten (10) days from the date of actual notice. If it is established by a preponderance of the evidence that notice of a decision by an appeals examiner was not transmitted electronically to an electronic-mail address approved by the Department because of error on the part of the Department, the period for filing a timely claim for review with the Industrial Commission under the Employment Security Law shall be deemed to have been fourteen (14) days from the date of actual notice. (7-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

090. DISMISSAL IF FILING IS LATE.

Where it appears that any appeal (request for hearing) to the appeals examiner, or claim, or any other request or application, may not have been filed within the period of time prescribed for filing, the appellant, claimant, petitioner, or applicant (as the case may be) shall be notified and be given an opportunity to show that such appeal, claim for review, petition, or other request was timely. In computing any period of time prescribed or allowed by the Employment Security Law or the Claims for Wages Act, the day of the act, event, or default is not to be included. Saturdays, Sundays, and holidays shall be counted during the period unless the last day of the period is a Saturday, Sunday, or legal holiday in which event the period shall not expire until the next business day following the Saturday, Sunday, or legal holiday. If it is found that such appeal, claim for review, petition or other request or application was not filed within the applicable time limit, it shall be dismissed on such grounds. If it is found that such appeal, claim for review, petition, or other request or application was timely, the matter shall be decided on the merits. Copies of a decision under this section shall either be given, ~~or~~ mailed, or electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, to all interested parties, together with a clear statement of right of appeal or review. Ref. Section 72-1368 and Section 45-617, Idaho Code.

~~(4-5-00)~~(7-1-10)T

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1001

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 72-1333, 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 August 18, 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 provides for the reissuing of benefit payment checks that are lost, stolen, destroyed, or forged by means other than paper checks; and reduces the amount of unemployment insurance benefits paid in a compensable week by an amount equal to the temporary disability benefits a claimant received under any worker's compensation law.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law or federal programs.

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: There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to 72-1312(4)(b) and 72-1346(3), Idaho Code, that were passed during 2010 Legislative Session.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Josh McKenna 334-3570 ext. 3919.

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 August 25, 2010.

DATED this 1st day of July, 2010.

Josh McKenna, Benefits Bureau Chief
Department of Labor
317 W. Main Street, Boise, ID 83735
Phone 332-3570 ext. 3919 / Fax 334-6125

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 09-0130-1001

500. REISSUING ~~CHECKS~~ BENEFIT PAYMENTS.

Whenever a benefit check payment is lost, stolen, destroyed, or forged, the claimant shall be issued a new check benefit payment upon his proper presentation of the facts and submission of an affidavit, in a form prescribed by the Department, for the issuance of a new check benefit payment. Ref. Section 72-1368(1), Idaho Code.

~~(3-19-99)~~(7-1-10)T

01. Affidavit for Issuance of New ~~Check~~ Benefit Payment. A claimant's affidavit filed for the issuance of a new check benefit payment must be signed before a notary public or an authorized representative of the Department. ~~If a claimant completes an affidavit and submits the remaining portions of a partially destroyed or mutilated check, the Department will waive any waiting period for reissuance of the check.~~

~~(3-19-99)~~(7-1-10)T

02. Reissuance of Stolen ~~Checks~~ Benefit Payments. If a claimant knows who took a check benefit payment, he must provide evidence that he has taken all reasonably available legal steps and been unsuccessful in recovering the check benefit payment before the Department will consider reissuing the check benefit payment.

~~(3-19-99)~~(7-1-10)T

501. -- 524. (RESERVED).

525. REPORTABLE INCOME.

Ref. Sections 72-1312, 72-1328, Idaho Code.

(3-19-99)

01. Back Pay or Disputed Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. If the claimant received waiting week credit for a week in which the award or judgment is reported or assigned, the waiting week will be denied if the amount of the award or judgment for the week renders the claimant ineligible for such credit. If the claimant received benefits for the weeks in which the award or judgment is reported or assigned, such benefits are overpaid to the extent that the weekly amount of the award or judgment affects the claimant's eligibility.

(3-19-99)

02. Disability/Injury Compensation. Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes.

(3-19-99)

03. Disability Retirement Payments. Retirement payments as a result of disability shall be treated the same as other types of retirement payments. Ref. Section 72-1312(4), Idaho Code.

(3-19-99)

04. Gratuities or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned.

(3-19-99)

05. Holiday Pay. Holiday pay must be reported as though earned in the week in which the holiday occurs.

(4-6-05)

06. Non-Periodic Remuneration. All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid.

(3-19-99)

07. Penalty or Damage Awards. Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages.

(3-19-99)

08. Pension, Retirement, or Annuity Payments. The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other similar periodic payment is made under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension shall be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension plan, the pension offset shall be reduced one

hundred percent (100%), and no deduction for the pension shall be made from the claimant's weekly benefit amount. Ref. Section 72-1312(4), Idaho Code. (3-19-99)

a. Pension Contributions. The burden shall be on the claimant to establish by substantial, competent evidence that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan. (3-19-99)

b. Pension Payment Changes. Any change in the amount of the pension, retirement, or annuity payments which affects the deduction from the claimant's weekly benefit amount shall be applied in the first full week after the effective date of the change. (3-19-99)

09. Relief Work or Public Assistance. (3-19-99)

a. Remuneration received for relief work or public service work will be considered wages on the same basis as any other employment. (3-19-99)

b. Eligibility When Public Assistance Received. A person receiving public assistance shall be eligible for benefits if no work is involved and the claimant is otherwise eligible. (3-19-99)

10. Self-Employment Earnings. When reporting earnings, a claimant must report gross earnings from self-employment unless the claimant can prove that certain expenditures, which are not commonly associated with working for wages, were necessary in order to accomplish the work. Such expenditures may include, but are not limited to, buying products wholesale for resale and renting equipment to accomplish a task. Expenditures which are not deductible include, but are not limited to, transportation costs, uniforms, and depreciation of equipment. (3-19-99)

11. Severance Pay. An equal portion of a periodic severance payment must be reported in each week of the period covered by the payment. However, severance pay received in a lump sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

12. Vacation Pay. Vacation pay allocable to a certain period of time in accordance with an employment agreement must be reported in the week to which it is allocable. However, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

13. Verification of Earnings on Claim Reports. The Department may verify the earnings and/or reasons for separation reported by claimants on claim reports filed for benefit payments. Ref. Section 72-1368(1), Idaho Code. (3-19-99)

14. Wages for Contract Services. A person who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract. This rule does not apply to employees of educational institutions. (3-19-99)

15. Wages for Services Performed Prior to Separation. Wages for services performed prior to a claimant's separation are reportable for the week in which earned. (3-19-99)

16. Temporary Disability Benefits. For any week with respect to which a claimant is receiving or has received temporary disability benefits under a worker's compensation law of any state or under a similar law of the United States, such payments shall be reported in an amount attributable to such week. If a claimant receives an award of temporary disability benefits which is attributable to any week in which the claimant had already received unemployment insurance benefits, the unemployment insurance benefits are overpaid to the extent the weekly amount of temporary disability benefits affects the claimant's eligibility for unemployment benefits. (7-1-10)T

IDAPA 09 - DEPARTMENT OF LABOR

09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-1001

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 72-1333, 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 August 18, 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 adds that notice of determinations may be served on interested parties by electronic transmission as allowed by Section 72-1368(5), Idaho Code; requires employers to maintain unemployment insurance tax records for five years allowing the Department to implement the new five (5) year enforcement limitation period of Section 72-1349(8), Idaho Code; provides a five-year statute of limitations for audits and inspections of employer records as required by Section 72-1349(8), Idaho Code; and makes technical corrections.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law or federal programs.

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: There will be no fiscal impact to the General Fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes simply bring the rule into compliance with amendments made to Sections 72-1349(8) and 72-1368(5), Idaho Code, that were passed during 2010 Legislative Session.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael Johnson 332-3570 ext. 3082.

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 August 25, 2010.

DATED this 1st day of July, 2010

Michael Johnson, Bureau Chief
Department of Labor
317 W. Main Street, Boise, ID 83735
Phone 332-3570 ext. 3082 / Fax 334-6125

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT OF DOCKET NO. 09-0135-1001

011. GENERAL PROVISIONS.

The following Unemployment Insurance Tax Administration Rules are adopted pursuant to Section 67-4702, Idaho Code. (4-11-06)

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. In the event a subject employer does not pay wages during a calendar quarter, the employer shall file a quarterly report indicating that no wages were paid. Ref. Section 72-1337, Idaho Code. (3-22-07)

02. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Section 72-1349, Idaho Code. (3-19-99)

03. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Section 72-1356, Idaho Code. (3-19-99)

04. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Section 72-1360, Idaho Code. (3-19-99)

05. Penalty and Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sections 72-1354 and 72-1360, Idaho Code. (3-19-99)

06. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sections 9-340 and 72-1342, Idaho Code. (3-19-99)

07. Filing of an Employer Appeal. (3-30-01)

a. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any Idaho Labor local office or to the UI Compliance Bureau of the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by an Idaho Department of Labor local office or the UI Compliance Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by an Idaho Department of Labor local office or the UI Compliance Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Idaho Department of Labor local office or to the UI Compliance Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Section 72-1361, Idaho Code. (~~3-22-07~~)(7-1-10)T

b. An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. (3-30-01)

c. In cases where a determination of amounts due is made by the Department pursuant to Section 72-

1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if (i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

08. Determinations. Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing, or the date of electronic transmission to an electronic-mail address approved by the Department, of the determination in accordance with Sections 72-1361 and -1368(5), Idaho Code. ~~(3-30-01)~~(7-1-10)T

09. Determination of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Section 72-1349, Idaho Code. (3-19-99)

10. Release of Lien upon Payment in Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Section 45-1908, Idaho Code. (3-19-99)

11. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on their behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Section 72-1349, Idaho Code. (4-11-06)

a. Common paymaster arrangements as referenced by Internal Revenue Code Section 3306 are prohibited for Idaho unemployment insurance purposes. Each covered employer shall complete and submit an Idaho business registration form and the Department will assign to the covered employer a unique unemployment insurance account number. The covered employer must file quarterly reports under its assigned unemployment insurance account number. The workers of one (1) covered employer may not be reported using the assigned unemployment insurance account number of a different covered employer or related entity. Ref. Sections 72-1325 and 72-1315, Idaho Code. (3-22-07)

(BREAK IN CONTINUITY OF SECTIONS)

081. EMPLOYER RECORDS.

Each person hiring one (1) or more individuals, whether or not such employment is sufficient to create the status of a covered employer, shall establish and maintain records to show the information hereinafter indicated. Such records shall be kept for a period of ~~three~~ five (35) years after the calendar year in which the remuneration was due. Ref. Section 72- 1337, Idaho Code. ~~(3-19-99)~~(7-1-10)T

01. Required Information. Such records shall show with respect to each employee unless the Department has ruled that the services do not constitute covered employment: (4-11-06)

- a.** Full name and home address of worker; (3-19-99)
- b.** Social Security account number; (3-19-99)

- c. The place of work within this State; (4-11-06)
- d. Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (3-19-99)
- e. Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (3-19-99)
- f. Wages paid for employment in each pay period and total wages for all pay periods ending in each quarter of the year, showing separately: (3-19-99)
 - i. Money wages; (3-19-99)
 - ii. The cash value of other remuneration; and (3-19-99)
 - iii. The amount of all bonuses or special commissions. (3-19-99)
- 02. Special Remuneration.** Any special remuneration paid for services performed in more than one-quarter (1/4) of the year, such as annual commissions or bonuses, gifts and prizes, showing separately: (3-19-99)
 - a. Money payments; and (3-19-99)
 - b. The cash value of other remuneration and the nature thereof. (3-19-99)
- 03. Travel or Employee Business Expenses.** Amounts paid to employees as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. (3-19-99)
- 04. Records to Be Made Available.** The records to be made available to the director or his authorized representative, in accordance with the provisions of Section 72-1337, Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts or any other investigations conducted by the department. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to the last known address of lien proceedings against the employer's interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Section 72-1360, Idaho Code. (4-11-06)

01. Statute of Limitations for Audits and Inspections of Employer Records. *In the absence of fraudulent practices, ~~the~~ The Department shall not audit an employer's records for a period greater than ~~three~~ five (35) years for purposes of establishing a tax liability. The ~~three~~ five (35) year period shall be determined by, and extend ~~three~~ five (35) years back from; the due date that the employer is notified, orally of a quarterly report or in writing by any representative of the Department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practices the date a quarterly report is filed, whichever is later. ~~(3-30-01)(7-1-10)T~~*

02a. Tolling of Statute of Limitations. The ~~three~~ five (35) year statute of limitations is tolled for any period in which the employer ~~does not reside within the state~~ absconds from the state, during any period of the employer's concealment, or during any period when the department's ability to commence administrative

proceedings to enforce Chapter 72, Section 1349 of the Idaho Code is stayed by legal proceedings.

~~(3-30-01)~~(7-1-10)T

03h. Notification of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Section 72-1337, Idaho Code. (3-19-99)

04c. Frequency of Audits. The frequency of audits or inspections of an employer's records to ensure compliance with the law and Department rules shall be based on the following criteria: (3-30-01)

a.i. On the basis of random selection and other selection criteria in accordance with federal requirements; (3-30-01)

b.ii. As a result of information received from any source, provided that the information received is of such a nature that it would be reasonable to conduct an audit or inspection of records as a result of that information; or (3-30-01)

e.iii. As a result of a previous audit, if the business practices or records of the employer are of such a nature that it would be reasonable for a Department employee to re-inspect or re-audit the records to ensure future compliance with the law. Ref. Section 72-1337, Idaho Code. (3-30-01)

~~**05.** *Statute of Limitations for Collections of Contributions, Penalty and Interest.* Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date of a final determination, decision or order establishing the employer's liability. (3-30-01)~~

~~**a.** *The time limits contained in Subsection 166.05 shall not apply once a tax liability is recorded as a lien against the property of an employer. (3-30-01)*~~

~~**b.** *If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations for collection shall be extended an additional three (3) years from the date of such payment or acknowledgement. (3-30-01)*~~

062. Execution Against Assets. The Department of Labor, when the situation warrants, shall levy upon or execute against any real or personal property, both tangible and intangible, in which an indebted person has an interest, including any offsets as allowed by Section 67-1026, Idaho Code. Ref. Section 72-1360, Idaho Code. (3-30-01)

073. Relief of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Section 72-1364, Idaho Code. (3-30-01)

**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 RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Thursday, August 12, 2010 at 9:00 a.m.

**Conference Room 302
Len B. Jordan Building
650 W. State St.
Boise, ID 83720**

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

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

The proposed changes 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 without requiring an additional 2 years of experience; and (2) allow the details of investigations to be released to law enforcement agencies and licensing entities in other jurisdictions.

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

No fee is being imposed or increased by 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 as a result of this rulemaking:

There will not be any negative fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 2, 2010 Idaho Administrative Bulletin, Vol. 10-6 page 37.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

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 August 25, 2010.

DATED this 24th day of June, 2010.

David L. Curtis, P.E.
Executive Director
Board of Professional Engineers and Professional Land Surveyors
1510 E. Watertower St., Ste. 110
Meridian, ID 83642-7993

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 10-0101-1001

017. EXAMINATIONS.

01. Special or Oral Examination. Examinations for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern will be held on dates and at times and places to be determined by the Board. Special oral or written examinations may be given by the Board as necessary. (3-29-10)

02. Eligibility for Examinations, Educational Requirements. The application for licensure as a professional engineer, professional land surveyor or certification as an engineer intern or land surveyor intern, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being assigned to any examination. (3-29-10)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs which are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-29-10)

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer. (5-8-09)

i. Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

ii. Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

c. Beginning July 1, 2010, an applicant who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their

equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for assignment to the examination for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: (5-8-09)

- i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)
- ii. Three (3) credits in Route Surveying; (3-30-07)
- iii. Three (3) credits in Public Land Surveying; (3-30-07)
- iv. Three (3) credits in Surveying Software Applications; (3-30-07)
- v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)
- vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)
- vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)
- viii. Three (3) credits in Geodesy; and (3-30-07)
- ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

~~d. In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements: (4-22-94)~~

~~i. Be licensed as a professional engineer in Idaho especially qualified in a discipline other than structural engineering. (3-29-10)~~

~~ii. Have two (2) years of work experience in the field of structural engineering after being licensed as a professional engineer. The Principles and Practice of Engineering examination for Structural Engineering will cover the practice of structural engineering to test the applicant's fitness to assume responsibility for engineering work affecting the public health, safety and welfare. The duration of the examination shall be as determined by the Board. (3-29-10)~~

ed. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree or Doctor of Philosophy degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of ABET, Inc. in the discipline of the applicant's master's degree or Doctor of Philosophy degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (3-29-10)

03. Excused Non-Attendance at Exam. In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

04. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination shall be a duration as determined by the Board.

Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (3-29-10)

05. Fundamentals of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (5-8-09)

06. Principles and Practice of Engineering -- Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

07. Two Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying for professional land surveyor licensure. The examination shall be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. (3-29-10)

08. Oral or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

09. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking licensure through comity or reciprocity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or licensure in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (5-8-09)

10. Grading. Each land surveyor intern, engineer intern and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each module of the examination. (3-29-10)

11. Use of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the field of structural engineering shall be the examination as determined by the Board. (3-29-10)

12. Review of Examination by Examinee. Due to security concerns about the examinations, examinees shall not be allowed to review their examination. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board. (3-20-04)

13. Proctoring of Examinations. Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-Specific examinations nor will they request another jurisdiction to proctor an examination for an Idaho applicant. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

021. RIGHT TO PUBLISH DISCIPLINARY ACTIONS.

The Board office may disclose the filing and the nature of a complaint, but may not disclose the details of an investigation except to law enforcement agencies and licensing entities in other jurisdictions. Final, formal enforcement shall be public information. Following a hearing or the entry of a consent agreement, the Board may publish a summary of any order issued by it, in a newsletter or newspaper of general circulation or, for a period of up to ten (10) years, may post it on the Internet. (~~3-29-10~~)(_____)

**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 RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1208, Idaho Code.

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

Thursday, August 12, 2010 at 9:00 a.m.

**Conference Room 302
Len B. Jordan Building
650 W. State St.
Boise, ID 83720**

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

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

The proposed changes 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 Rules of Civil Procedure would apply; and (2) require that licensees be prompt in statements and written responses to the Board.

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

No fee is being imposed or increased by 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 as a result of this rulemaking:

There will not be any negative fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 2, 2010 Idaho Administrative Bulletin, Vol. 10-6 page 38.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Director at dave.curtis@ipels.idaho.gov or at (208) 373-7210.

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 August 25, 2010.

DATED this 24th day of June, 2010.

David L. Curtis, P.E.
Executive Director
Board of Professional Engineers and Land Surveyors
1510 E. Watertower St., Ste. 110
Meridian, ID 83642-7993

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 10-0102-1001

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility." (5-8-09)

02. Scope. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Professional Responsibility, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a license as a Professional Engineer or Professional Land Surveyor, on all entities authorized to offer or perform engineering or land surveying services through a business entity or other legal entity and on every person holding a certificate as an engineer intern or a certificate as a land surveyor intern. Each Licensee and Certificate Holder under the laws of the state of Idaho is charged with being familiar with these Rules and knowledgeable in their application to the practice of engineering and land surveying. Such application shall include the recognition that the practice of engineering or the practice of land surveying is a privilege and the Licensee or Certificate Holder shall be forthright, ~~and~~ candid, and timely in statements or written responses to the Board, or its representatives, on matters pertaining to these Rules. All Licensees or Certificate Holders in their original application, and for renewals thereof, shall certify that they have read and agree to abide by the Rules which are in force at the time of application or renewal. These Rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Licensee or Certificate Holder to Board action pursuant to Chapter 12, Title 54, Idaho Code. (~~5-8-09~~)()

(BREAK IN CONTINUITY OF SECTIONS)

004. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (7-1-93)

01. Board. The Board of Licensure of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Certificate Holder. Any person holding a current certificate as an Engineer Intern or a Land Surveyor Intern or a business entity (which is also herein referred to as a "person") holding a current certificate of authorization, which has been duly issued by the Board. (5-8-09)

03. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. (3-29-10)

04. Incompetence. Failure to meet the standard of care. (3-29-10)

05. Licensee. Any person holding a current license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board. (5-8-09)

06. Misconduct. A violation or attempt to violate these rules of professional responsibility or to knowingly assist or induce another to do so, or do so through the acts of another; a finding of guilt of commitment of a felony or a plea of guilty to a felony; commit fraud or deceit; failure to respond within twenty (20) days of an inquiry from the Board or its representative, unless such time is extended by the Board for justifiable cause; state or imply an ability to influence improperly a government agency or official. ~~(3-29-10)~~(____)

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Licensees and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (5-8-09)

02. Standard of Care. Each Licensee and Certificate Holder shall exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (3-29-10)

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (5-8-09)

04. Obligation to Communicate Discovery of Discrepancy. If a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy shall respond in writing within sixty (60) calendar days to any question about his work raised by another Licensee or Certificate Holder. Failure to respond on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer shall notify the Board in the event a response satisfactory to the discoverer is not obtained within sixty (60) days. A Licensee or Certificate Holder shall be exempt from this requirement if their client is an attorney and they are being retained as an expert witness. In this case, the Idaho Rules of Civil Procedure shall apply. ~~(5-8-09)~~(____)

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development." (5-8-09)

**IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES**

15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

DOCKET NO. 15-0401-1001

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 67-5309, 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 August 18, 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:

During the 2010 legislative session, Section 67-5309, Idaho Code, was amended to increase the number of names on a hiring list (register). This rule change will reflect the change made to Idaho Code.

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

The temporary rule is necessary in order to comply with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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: No fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule change is to align existing rules with Idaho Code.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Lee McCormick, 208-854-3069.

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 August 25, 2010.

DATED this 1st day of July, 2010.

Vicki Tokita, Program Manager
Division of Human Resources
304 N. 8th Street
PO Box 83720
Boise, ID 83720-0066
Main: 208-334-3900, Fax: 208-334-2438

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 15-0401-1001

010. DEFINITIONS -- A THROUGH E.

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

01. Administrator. The Administrator of the Division of Human Resources in the Office of the Governor or delegate for those responsibilities assigned by the administrator to a specific appointing authority. (5-8-09)

02. Agency Classification. A classification of positions unique to an agency. (5-8-09)

03. Allocation. The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

04. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)

05. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

06. Appointing Authority. The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any agency. (Ref. Section 67-5302(3), Idaho Code) (5-8-09)

07. Appointment, Limited. The appointment of a person to a classified, position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)

08. Appointment, Nonclassified. The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

09. Appointment, Permanent. The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

10. Appointment, Probationary. The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

11. Appointment, Project Exempt. The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

12. Appointment, Provisional. The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)

13. Appointment, Seasonal. An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (3-16-04)

14. Appointment, Temporary. The appointment of a person to a nonclassified position which is of a limited duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours

during any twelve (12) month period for any one (1) agency. Temporary appointments may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (5-8-09)

15. Base Pay. The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (5-8-09)

16. Certifiable Range. An examination score and a rank on an eligibility register sufficiently high to be among the top ~~ten~~ twenty-five (~~10~~25) available names, plus names of all individuals with scores identical to the ~~tenth~~ twenty-fifth ranking eligible, for certification to fill a position in the classification for which the register was established. (~~3-16-04~~)(7-1-10)T

17. Classified Service. That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (5-8-09)

18. Commission. As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (5-8-09)

19. Compensation Plan. The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division of Human Resources and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (5-8-09)

20. Compensation Schedule. The pay grades established by the Division of Human Resources and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

21. Consultant. An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule Section 050) (5-8-09)

22. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Section 190 of these rules. (5-8-09)

23. Due Process. As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-16-04)

24. Employment History. The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (5-8-09)

25. Examination. The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

011. DEFINITIONS -- F THROUGH J.

Each of the terms defined in these rules will have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (5-8-09)

01. General Classification. A classification of positions that is common to more than one (1) participating agency. (5-8-09)

02. Good Cause. The conduct of a reasonable person in the same or similar circumstances. (7-1-87)

03. Hay Method. A methodology for establishing the relative value of jobs and used as a dimension of the pay system. (5-8-09)

04. Hiring List. A hiring list is a subset of a register consisting of the top ~~ten~~ twenty-five (~~10~~25)

individuals on the register, plus all individuals tied for the ~~tenth~~ twenty-fifth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top ~~ten~~ twenty-five (25). ~~(5-8-09)~~(7-1-10)T

05. Incumbent. Any person holding a classified or non-classified position in state service. (7-1-87)

06. Independent Contractor. Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule Section 050) (5-8-09)

07. Involuntary Transfer. A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

110. NUMBER OF NAMES ON REGISTER.

The Division of Human Resources' staff shall certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among ~~ten~~ twenty-five (~~10~~25) eligible candidates *successively* for each position to be filled. *If an appointment is to be made to one (1) position only, the top ten (10) available eligible candidates shall be certified.* If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority shall have ~~ten~~ twenty-five (~~10~~25) names to consider for each vacancy. The names of all eligible candidates with scores identical to the ~~tenth~~ twenty-fifth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes. ~~(3-16-04)~~(7-1-10)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.06 - RULES GOVERNING QUALITY ASSURANCE FOR IDAHO CLINICAL LABORATORIES

DOCKET NO. 16-0206-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-1003, 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 August 18, 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:

Since the last major update of these rules in 1987, there have been significant technological changes that render much of the language in this chapter obsolete and outdated. Further, the rules do not reflect more recent changes in federal regulations, in the organizational structure of the Department's Bureau of Laboratories, and in the Bureau's current practices.

As a result, this chapter of rules is being repealed under this docket and rewritten in this Bulletin under companion Docket No. 16-0206-1002.

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

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

There is no anticipated fiscal impact to state general funds related to this rulemaking. The functions administered under these rules are 100% federally-funded under the CLIA (Clinical Laboratory Improvement Amendments of 1988) grant.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 5, 2010, Idaho Administrative Bulletin, Volume 10-5, page 25.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David Eisentrager at (208) 334-2235 x245.

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 August 25, 2010.

DATED this 9th day of July, 2010.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.06 - QUALITY ASSURANCE FOR IDAHO CLINICAL LABORATORIES
DOCKET NO. 16-0206-1002 (CHAPTER REWRITE)
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 56-1003, 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 August 18, 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:

Since the last major update of these rules in 1987, there have been significant technological changes that render much of the language in this chapter obsolete and outdated. Further, the rules do not reflect more recent changes in federal regulations, in the organizational structure of the Department's Bureau of Laboratories, and in the Bureau's current practices.

As a result, this chapter of rules is being completely rewritten in order to simplify, clarify, update, and modernize the content, and to revise the chapter to reflect current practice of the Department's Bureau of Laboratories. The current chapter is being repealed in this Bulletin under companion Docket No. 16-0206-1001.

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

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

There is no anticipated fiscal impact to state general funds related to this rulemaking. The functions administered under these rules are 100% federally-funded under the CLIA (Clinical Laboratory Improvement Amendments of 1988) grant.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 5, 2010, Idaho Administrative Bulletin, Volume 10-5, page 25.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David Eisentrager at (208) 334-2235 x245.

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 August 25, 2010.

DATED this 9th day of July, 2010.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0206-1002

IDAPA 16
TITLE 02
CHAPTER 06

16.02.06 - QUALITY ASSURANCE FOR IDAHO CLINICAL LABORATORIES

000. LEGAL AUTHORITY.

Under Section 56-1003, Idaho Code, the Idaho Legislature has delegated to the Board of Health and Welfare the authority to set standards for laboratories in the state of Idaho. ()

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.02.06, "Quality Assurance for Idaho Clinical Laboratories." ()

02. Scope. These rules protect the public and individual health by requiring that all Idaho clinical laboratories develop satisfactory quality assurance programs that meet minimal standards approved by the Board. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into this chapter of rules. ()

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

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

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

03. Street Address. ()

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

b. The Idaho Bureau of Laboratories is located at 2220 Old Penitentiary Road, Boise, Idaho, 83712-8299. ()

04. Telephone. ()

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

b. The telephone number for the Idaho Bureau of Laboratories is (208) 334-2235. ()

05. Internet Website. ()

a. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. ()

b. The webpage for the Department's Idaho Bureau of Laboratories (IBL) is found at <http://www.statelab.idaho.gov>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

For the purposes of these rules, the following terms apply: ()

01. Board. The Idaho Board of Health and Welfare. ()

02. Department. The Idaho Department of Health and Welfare. ()

03. Director. The Director of the Idaho Department of Health and Welfare, or his designee. ()

04. Laboratory or Clinical Laboratory. A facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examinations of material derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or the impairment or assessment of human health. ()

05. Laboratory Director. The person under whose supervision the laboratory is operating. ()

06. Pathologist. A physician who is: ()

a. Licensed by the Idaho State Board of Medicine in accordance with IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho"; and ()

b. Board certified by the American Board of Anatomic and Clinical Pathology. ()

07. Proficiency Testing. Evaluation of a laboratory's ability to perform laboratory procedures within acceptable limits of accuracy through analysis of unknown specimens distributed at periodic intervals. ()

08. Quality Control. A day-to-day analysis of reference materials to ensure reproducibility and accuracy of laboratory results, and also includes an acceptable system to assure proper functioning of instruments, equipment and reagents. ()

09. Reviewer. An employee or other designated representative of the Department's Idaho Bureau of Laboratories, who is knowledgeable and experienced in clinical laboratory methods and procedures. ()

011. -- 099. (RESERVED).

100. REGISTRATION REQUIREMENTS FOR CLINICAL LABORATORIES.

01. Registration Timeframes. ()

a. Every person responsible for the operation of a laboratory that performs tests on material derived from the human body must register such facility with the Department within thirty (30) days after first accepting specimens for testing. ()

b. Existing laboratories must submit a completed laboratory registration form every two (2) years and indicate any changes in laboratory operations. ()

02. Registration Form. Each laboratory must submit its registration information on the Department-approved form. These forms are available upon request from the Department. Each completed registration form must include the following information: ()

a. Name and location of the laboratory; ()

b. Name of the laboratory director; ()

c. Types of laboratory tests performed in the laboratory; and ()

d. Other information requested by the Department that it deems necessary to evaluate the performance of the laboratory. ()

101. -- 109. (RESERVED).

110. EXCLUSIONS.

01. Other Certifying Agencies. Laboratories will be excluded from compliance with these rules (except Sections 100 and 200) upon submission of evidence of certification from one (1) of the following agencies: ()

a. Centers for Medicare and Medicaid Services (CMS), Clinical Laboratory Improvement Amendment (CLIA) certification program (http://www.cms.gov/CLIA/01_Overview.asp); ()

b. College of American Pathologists; ()

c. Agencies approved by CMS as accreditation organizations. To review the current list of CMS-approved accreditation organizations, go to: <http://www.cms.gov/CLIA/downloads/AO.List.pdf>; ()

d. Laboratories located in hospitals approved by the Joint Commission (http://www.jointcommission.org/AccreditationPrograms/LaboratoryServices/lab_facts.htm); and ()

e. Other certification programs approved by the Department. ()

03. Facilities and Laboratories. The following laboratories and facilities are also excluded from compliance with this chapter: ()

a. Laboratories operated for teaching or research purposes only, provided tests results are not used for diagnosis or treatment; ()

b. Prosthetic dental laboratories; and ()

c. Facilities performing skin testing solely for detection of allergies and sensitivities. ()

111. -- 119. (RESERVED).

120. DEPARTMENT INSPECTIONS OF CLINICAL LABORATORIES.

A qualified representative of the Department is authorized to inspect the premises and operations of all approved laboratories for the purpose of determining the adequacy of the quality control program and supervision of each laboratory. ()

121. -- 129. (RESERVED).

130. GENERAL REQUIREMENTS FOR CLINICAL LABORATORIES.

01. Laboratory Facilities. Each laboratory must have adequate space, equipment, and supplies to perform the services offered, with accuracy, precision, and safety. ()

02. Records. ()

a. Laboratory records must identify the person responsible for performing the procedure. ()

b. Each laboratory must maintain a suitable record of each test result for a period of at least two (2) years. Reports of tests must be filed in a manner that permits ready identification and accessibility. ()

c. Laboratory records and reports must identify specimens referred to other laboratories and must identify the reference laboratory testing such referred specimens. ()

131. -- 149. (RESERVED).

150. PERSONNEL REQUIREMENTS FOR CLINICAL LABORATORIES.

The laboratory director must ensure that the staff of the laboratory: ()

01. Appropriate Education, Experience, and Training. Have appropriate education, experience, and training to perform and report laboratory tests promptly and proficiently; ()

02. Sufficient in Number for the Scope and Complexity. Are sufficient in number for the scope and complexity of the services provided; ()

03. In-service Training. Receive in-service training appropriate to the type and complexity of the laboratory services offered; and ()

04. Procedures and Tests that are Outside the Scope of Training. Do not perform procedures and tests that are outside the scope of training of the laboratory personnel. ()

151. -- 199. (RESERVED).

200. PROFICIENCY TESTING OF CLINICAL LABORATORIES.

01. Scope. All laboratories must subscribe to, and satisfactorily participate in, a proficiency testing program that has been approved by the Department. ()

02. Results to the Bureau of Laboratories. The laboratory director must furnish the Laboratory Improvement Section with copies of all proficiency testing results within thirty (30) days of receipt or make provisions for a duplicate of the results to be sent by the testing service directly to the Department. ()

201. -- 209. (RESERVED).

210. QUALITY CONTROL PROGRAM REQUIREMENTS FOR CLINICAL LABORATORIES.

01. Establishment of Quality Control Program. To ensure reliability of day-to-day results, each laboratory must establish a quality control program compatible with regional and statewide practices. ()

- 02. Program Scope.** An acceptable quality control program must include the following: ()
- a.** An effective preventive maintenance program that ensures proper functioning of all instruments and equipment; ()
 - b.** Routine testing of quality control materials along with patient specimens; ()
 - c.** Quality control checks on reagents and media utilized in the performance of tests; ()
 - d.** Maintenance of quality control records that will enable determination of reliability of all procedures performed. ()

211. -- 219. (RESERVED).

220. DEPARTMENT APPROVAL OF CLINICAL LABORATORIES.

The Department will approve clinical laboratories for performance of tests on material from the human body if the laboratory meets the minimum standards specified in these regulations. ()

221. -- 229. (RESERVED).

230. DEPARTMENT REVOCATION OF APPROVAL.

The Department may revoke approval, either in total or in part, for the following reasons: ()

01. Failure to Participate in Proficiency Testing. The approved laboratory fails to participate in a proficiency testing program as outlined in Section 200. ()

02. Failure to Participate in Quality Control. The approved laboratory fails to implement a quality control program as outlined in Section 210. ()

03. Failure to Obtain Satisfactory Results. The Department, through the quality review process, determines that the approved laboratory has failed to obtain satisfactory results on two (2) consecutive or on two (2) out of three (3) consecutive sets of proficiency test program specimens in one (1) or more testing categories. ()

04. Failure to Submit Documentation. Failure to submit documentation of corrective action as indicated in Subsection 240.02. ()

231. -- 239. (RESERVED).

240. REVOCATION PROCEDURE.

01. Unacceptable Results. Laboratories that fail to obtain passing results on two (2) consecutive proficiency testing events, or two (2) out of three (3) events, will be required to submit documentation of corrective action within fifteen (15) working days after receipt of the notification of the failures. Evaluation of proficiency testing results may overlap from one year to the next. ()

02. Corrective Action. Upon receipt of documentation of corrective action, a reviewer will determine the adequacy of the action taken. If, in the opinion of the reviewer, the corrective action is not adequate, the laboratory will be required to submit to an on-site inspection that may include on-site testing of unknown samples. ()

03. On-Site Inspection. If the results of the on-site inspection indicate that the laboratory's performance is unacceptable in one or more testing categories, the approval to perform the test(s) in question will be revoked. ()

04. Satisfactory Performance. The laboratory will continue to be approved for performance of all test procedures for which it has demonstrated satisfactory performance. ()

05. Other Deficiencies. Failure to comply with other provisions of these rules may invoke revocation procedures. ()

241. -- 249. (RESERVED).

250. RENEWAL OF APPROVAL OF TEST OR TESTS WHICH HAVE BEEN DISAPPROVED.

01. Renewal Granted. ()

a. A laboratory that has lost approval to perform certain tests for reasons outlined in Section 240 may gain reapproval by documenting corrective action taken, and by requesting the Department review the unacceptable performance and the corrective action taken. ()

b. Within ten (10) days after completion of this review, the reviewer will submit his report to the Chief of the Bureau of Laboratories. ()

c. Upon determination that corrections leading to satisfactory and acceptable performance have been made, the Chief of the Bureau of Laboratories may reinstate approval. ()

02. Renewal Denied. If the Chief of the Bureau of Laboratories does not grant reapproval of the laboratory, he will provide the laboratory supervisor with written notice of actions to be taken to correct deficiencies. The laboratory supervisor may request a new review at any time after thirty (30) days from the date of last review. The laboratory supervisor may also file a written appeal in accordance with IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 400. ()

251. -- 269. (RESERVED).

270. LIST OF APPROVED LABORATORIES.

The Department will maintain a list of laboratories approved in accordance with this chapter. This list must include the name and address of each approved laboratory, and the name of the person directing the laboratory. ()

271. -- 299. (RESERVED).

300. PENALTY FOR FAILURE TO REGISTER OR OPERATION OF A NONAPPROVED CLINICAL LABORATORY.

Failure to register a clinical laboratory, operation of a nonapproved clinical laboratory, or performance of unapproved testing constitutes a violation of these rules. Any violation of these rules constitutes a misdemeanor under Section 56-1008, Idaho Code. ()

301. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0305-1001

NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Sections 56-202 and 56-203, Idaho Code.

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

SPECIAL NOTE: *Department staff will be available at the hearing site for a question and answer session about the AABD cash rule changes beginning at 1:00 p.m. The Public Hearing will begin promptly at 1:30 p.m.*

Wednesday, August 11, 2010 at 1:00 p.m.

**Region IV Health & Welfare Office
1720 Westgate Drive
Suite D Conference Room
Boise, ID**

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

DESCRIPTIVE SUMMARY: The summary of this action is found in the [Idaho Administrative Bulletin, Vol. 10-6, dated June 2, 2010, pages 39 through 44.](#)

The 2010 Legislature set the Department's appropriations budget for State Fiscal Year 2011. The Department needed to reduce general fund expenditures and the rule changes in this docket were made to meet the 2011 appropriations budget.

Department staff will be available to answer questions about the rule changes for a half hour prior to starting the public hearing.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Susie Cummins at (208) 732-1419.

SUBMISSION OF WRITTEN COMMENTS: The comment period for this rulemaking has been extended. Anyone may submit written comments at the public hearing regarding this rulemaking.

Any written comments submitted at a public hearing carry the same weight as oral testimony. All written comments must be directed to the undersigned and must be delivered on or before August 11, 2010.

DATED this 30th day of June, 2010.

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1001

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of these temporary rules 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 55-819 and 56-225, Idaho Code, adopted by the 2010 Legislature under Senate Bill 1321.

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 August 18, 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:

Statute changes effective on July 1, 2010, required the Department to provide a model form for notice of transfer or encumbrance to be used by a Medicaid recipient or his representative when notifying the Department of transferring real property. This requirement for a request of notice form is being added into Section 900, Liens and Estate Recovery. Because this section is long and cumbersome, the Department decided to reformat the rule into more user friendly sections at this time. Other minor changes have been made for clarity and understanding of these rules.

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: N/A

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

This rule change will have no negative fiscal impact to the state general funds. This change should have a positive fiscal effect by preventing improper asset transfers and increase recovery of assets that otherwise would be missed.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to meet statutory changes adopted by the 2010 Legislature under Senate Bill 1321.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Larry Tisdale at (208) 287-1141.

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 August 25, 2010.

DATED this 30th day of June, 2010.

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

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 16-0309-1001

SUB AREA: LIENS AND ESTATE RECOVERY
(Section 900 - 909)

900. LIENS AND ESTATE RECOVERY.

In accordance with Sections 55-819, 56-218, ~~and~~ 56-218A, and 56-225, Idaho Code, this Section of rule sets forth the provisions for recovery of medical assistance, the filing of liens against the property of deceased persons, ~~and~~ the filing of liens against the property of permanently institutionalized participants, and the recording of requests for notice. (~~3-30-07~~)(7-1-10)T

01. Medical Assistance Incorrectly Paid. The Department may, pursuant to a judgment of a court, file a lien against the property of a living or deceased person of any age to recover the costs of medical assistance incorrectly paid. (3-30-07)

02. Administrative Appeals. Permanent institutionalization determination, ~~and~~ undue hardship waiver, and request for notice hearings are governed by the fair hearing provisions of IDAPA 16, ~~Title~~ 05, ~~Chapter~~ 03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (~~3-30-07~~)(7-1-10)T

~~900~~01. LIENS AND ESTATE RECOVERY - DEFINITIONS.

The following terms are applicable to Sections 900 through 909 of this chapter of rules: (~~3-30-07~~)(7-1-10)T

~~01~~01. Authorized Representative. The person appointed by the court as the personal representative in a probate proceeding or, if none, the person identified by the participant to receive notice and make decisions on estate matters. (3-30-07)

~~02~~02. Discharge From a Medical Institution. A medical decision made by a competent medical professional that the Medicaid participant no longer needs nursing home care because the participant's condition has improved, or the discharge is not medically contraindicated. (3-30-07)

~~03~~03. Equity Interest in a Home. Any equity interest in real property recognized under Idaho law. (3-30-07)

~~04~~04. Estate. All real and personal property and other assets including those in which the participant had any legal or beneficial title or interest at the time of death, to the extent of such interest, including such assets conveyed to a survivor, heir, or assignee of the deceased participant through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. (3-30-07)

~~05~~05. Home. The dwelling in which the participant has an ownership interest, and which the participant occupied as his primary dwelling prior to, or subsequent to, his admission to a medical institution. (3-30-07)

~~06~~06. Institutionalized Participant. An inpatient in a nursing facility (NF), intermediate care facility for

people with intellectual disabilities (ICF/ID), or other medical institution, who is a Medicaid participant subject to post-eligibility treatment of income in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)." (3-30-07)

~~g~~**07. Lawfully Residing.** Residing in a manner not contrary to or forbidden by law, and with the participant's knowledge and consent. (3-30-07)

~~h~~**08. Permanently Institutionalized.** An institutionalized participant of any age who the Department has determined cannot reasonably be expected to be discharged from the institution and return home. Discharge refers to a medical decision made by a competent medical professional that the participant is physically able to leave the institution and return to live at home. (3-30-07)

~~i~~**09. Personal Property.** Any property not real property, including cash, jewelry, household goods, tools, life insurance policies, boats and wheeled vehicles. (3-30-07)

~~j~~**10. Real Property.** Any land, including buildings or immovable objects attached permanently to the land. (3-30-07)

~~k~~**11. Residing in the Home on a Continuous Basis.** Occupying the home as the primary dwelling and continuing to occupy such dwelling as the primary residence. (3-30-07)

~~l~~**12. Termination of a Lien.** The release or dissolution of a lien from property. (3-30-07)

~~m~~**13. Undue Hardship.** Conditions that justify waiver of all or a part of the Department's claim against an estate, described in Subsections ~~900.25~~ 905.06 through ~~900.29~~ 905.10 of ~~the~~ these rules. (~~3-30-07~~)(7-1-10)T

~~n~~**14. Undue Hardship Waiver.** A decision made by the Department to relinquish, limit, or defer its claim to any or all estate assets of a deceased participant based on good cause. (3-30-07)

04902. LIENS AND ESTATE RECOVERY - NOTIFICATION TO DEPARTMENT.

All notification regarding liens, ~~and~~ estate claims, and requests for notice must be directed to the Department of Health and Welfare, Estate Recovery Unit, 3276 Elder, Suite B, P.O. Box 83720, Boise, Idaho, 83720-0036. (~~3-30-07~~)(7-1-10)T

903. LIENS AND ESTATE RECOVERY - LIEN DURING LIFETIME OF PARTICIPANT.

~~05~~**1. Lien Imposed During Lifetime of Participant.** During the lifetime of the permanently institutionalized participant, and subject to the restrictions set forth in Subsection ~~900.08~~ 903.04 of this rule, the Department may impose a lien against the real property of the participant for medical assistance correctly paid on his behalf. The lien must be filed within ninety (90) days of the Department's final determination, after notice and opportunity for a hearing, that the participant is permanently institutionalized. The lien is effective from the beginning of the most recent continuous period of the participant's institutionalization, but not before July 1, 1995. Any lien imposed will dissolve upon the participant's discharge from the medical institution and return home. (~~3-30-07~~)(7-1-10)T

~~06~~**2. Determination of Permanent Institutionalization.** The Department must determine that the participant is permanently institutionalized prior to the lien being imposed. An expectation or plan that the participant will return home with the support of Home and Community Based Services does not, in and of itself, justify a decision that he is reasonably expected to be discharged to return home. The following factors must be considered when making the determination of permanent institutionalization: (3-30-07)

a. The participant must meet the criteria for nursing facility or ICF/ID level of care and services as set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 220 through 299, and 580 through 649; (3-30-07)

b. The medical records must be reviewed to determine if the participant's condition is expected to improve to the extent that he will not require nursing facility or ICF/D level of care; and (3-30-07)

c. Where the prognosis indicated in the medical records is uncertain or inconclusive, the Department may request additional medical information, or may delay the determination until the next utilization control review or annual Inspection of Care review, as appropriate. (3-30-07)

073. Notice of Determination of Permanent Institutionalization and Hearing Rights. The Department must notify the participant or his authorized representative, in writing, of its intention to make a determination that the participant is permanently institutionalized, and that he has the right to a fair hearing in accordance with Subsection 900.02 of ~~this~~ these rules. This notice must ~~include~~ inform the participant of the following information, at a minimum: ~~(3-30-07)~~(7-1-10)T

a. The ~~notice must inform the participant that the~~ Department's decision that he cannot reasonably be expected to be discharged from the medical institution to return home is based upon a review of the medical records and plan of care, but that this does not preclude him from returning home with services necessary to support nursing facility or ICF/ID level of care; and ~~(3-30-07)~~(7-1-10)T

b. ~~The notice must inform the participant that h~~He or his authorized representative may request a fair hearing prior to the Department's final determination that he is permanently institutionalized. The notice must include information that a pre-hearing conference may be scheduled prior to a fair hearing. The notice must include the time limits and instructions for requesting a fair hearing. ~~(3-30-07)~~(7-1-10)T

c. ~~The notice must inform the participant that i~~If he or his authorized representative does not request a fair hearing within the time limits specified, his real property, including his home, may be subject to a lien, contingent upon the restrictions in Subsection ~~900.08~~ 903.04 of this rule.. ~~(3-30-07)~~(7-1-10)T

084. Restrictions on Imposing Lien During Lifetime of Participant. A lien may be imposed on the participant's real property; however, no lien may be imposed on the participant's home if any of the following is lawfully residing in such home: (3-30-07)

a. The spouse of the participant; (3-30-07)

b. The participant's child who is under age twenty-one (21), or who is blind or disabled as defined in 42 U.S.C. 1382c as amended; or (3-30-07)

c. A sibling of the participant who has an equity interest in the participant's home and who was residing in such home for a period of at least one (1) year immediately before the date of the participant's admission to the medical institution, and who has been residing in the home on a continuous basis. (3-30-07)

095. Restrictions on Recovery on Lien Imposed During Lifetime of Participant. Recovery will be made on the lien from the participant's estate, or at any time upon the sale of the property subject to the lien, but only after the death of the participant's surviving spouse, if any, and only at a time when: (3-30-07)

a. The participant has no surviving child who is under age twenty-one (21); (3-30-07)

b. The participant has no surviving child of any age who is blind or disabled as defined in 42 U.S.C. 1382c as amended; and (3-30-07)

c. In the case of a lien on a participant's home, when none of the following is lawfully residing in such home who has lawfully resided in the home on a continuous basis since the date of the participant's admission to the medical institution: (3-30-07)

i. A sibling of the participant, who was residing in the participant's home for a period of at least one (1) year immediately before the date of the participant's admission to the medical institution; or (3-30-07)

ii. A son or daughter of the participant, who was residing in the participant's home for a period of at least two (2) years immediately before the date of the participant's admission to the medical institution, and who establishes by a preponderance of the evidence that he provided necessary care to the participant, and the care he

provided allowed the participant to remain at home rather than in a medical institution. (3-30-07)

406. Recovery Upon Sale of Property Subject to Lien Imposed During Lifetime of Participant. Should the property upon which a lien is imposed be sold prior to the participant's death, the Department will seek recovery of all medical assistance paid on behalf of the participant, subject to the restrictions in Subsection ~~900.09~~ ~~903.05~~ of ~~these~~ this rules. Recovery of the medical assistance paid on behalf of the participant from the proceeds from the sale of the property does not preclude the Department from recovering additional medical assistance paid from the participant's estate as described in Subsection ~~900.14~~ 904.01 of ~~this~~ these rules. (~~3-30-07~~)(7-1-10)T

407. Filing of Lien During Lifetime of Participant. When appropriate, the Department will file, in the office of the Recorder of the county in which the real property of the participant is located, a verified statement, in writing, setting forth the following: (3-30-07)

- a. The name and last known address of the participant; and (3-30-07)
- b. The name and address of the official or agent of the Department filing the lien; and (3-30-07)
- c. A brief description of the medical assistance received by the participant; and (3-30-07)
- d. The amount paid by the Department, as of a given date, and, if applicable, a statement that the amount of the lien will increase as long as medical assistance benefits are paid on behalf of the participant. (3-30-07)

408. Renewal of Lien Imposed During Lifetime of Participant. The lien, or any extension thereof, must be renewed every five (5) years by filing a new verified statement as required in Subsection ~~900.14~~ 903.07 of this rule, or as required by Idaho law. (~~3-30-07~~)(7-1-10)T

409. Termination of Lien Imposed During Lifetime of Participant. The lien will be released as provided by Idaho Code, upon satisfaction of the Department's claim. The lien will dissolve in the event of the participant's discharge from the medical institution and return home. Such dissolution of the lien does not discharge the underlying debt and the estate remains subject to recovery under estate recovery provisions in ~~Subsections 900.14 through 900.30~~ 904 and 905 of ~~this~~ these rules. (~~3-30-07~~)(7-1-10)T

4904. LIENS AND ESTATE RECOVERY - REQUIREMENTS FOR ESTATE RECOVERY.

01. Estate Recovery Requirements. In accordance Sections 56-218 and 56-218A, Idaho Code, the Department is required to recover the following: (~~3-30-07~~)(7-1-10)T

- a. The costs of all medical assistance correctly paid on or after July 1, 1995, on behalf of a participant who was permanently institutionalized; (3-30-07)
- b. The costs of medical assistance correctly paid on behalf of a participant who received medical assistance at age fifty-five (55) or older on or after July 1, 1994; and (3-30-07)
- c. The costs of medical assistance correctly paid on behalf of a participant who received medical assistance at age sixty-five (65) or older on or after July 1, 1988. (3-30-07)

4502. Recovery From Estate of Spouse. Recovery from the estate of the spouse of a Medicaid participant may be made as permitted in Sections 56-218 and 56-218A, Idaho Code. (3-30-07)

4603. Lien Imposed Against Estate of Deceased Participant. Liens may be imposed against the estates of deceased Medicaid participants and their spouses as permitted by Section 56-218, Idaho Code. (3-30-07)

4704. Notice of Estate Claim. The Department will notify the authorized representative of the amount of the estate claim after the death of the participant, or after the death of the surviving spouse. The notice must include instructions for applying for an undue hardship waiver. (3-30-07)

4805. Assets in Estate Subject to Claims. The authorized representative will be notified of the

Department's claim against the assets of a deceased participant. Assets in the estate from which the claim can be satisfied must include all real or personal property that the deceased participant owned or in which he had an ownership interest, including the following: (3-30-07)

a. Payments to the participant under an installment contract will be included among the assets of the deceased participant. This includes an installment contract on any real or personal property to which the deceased participant had a property right. The value of a promissory note, loan or property agreement is its outstanding principal balance at the date of death of the participant. When a promissory note, loan, or property agreement is secured by a Deed of Trust, the Department may request evidence of a reasonable and just underlying debt. (3-30-07)

b. The deceased participant's ownership interest in an estate, probated or not probated, is an asset of his estate when: (3-30-07)

i. Documents show the deceased participant is an eligible devisee or donee of property of another deceased person; or (3-30-07)

ii. The deceased participant received income from property of another person; or (3-30-07)

iii. State intestacy laws award the deceased participant a share in the distribution of the property of another estate. (3-30-07)

c. Any trust instrument which is designed to hold or to distribute funds or property, real or personal, in which the deceased participant had a beneficial interest is an asset of the estate. (3-30-07)

d. Life insurance is considered an asset when it has reverted to the estate. (3-30-07)

e. Burial insurance is considered an asset when a funeral home is the primary beneficiary or when there are unspent funds in the burial contract. Any funds remaining after payment to the funeral home will be considered assets of the estate. (3-30-07)

f. Checking and savings accounts which hold and accumulate funds designated for the deceased participant, are assets of the estate, including joint accounts which accumulate funds for the benefit of the participant. (3-30-07)

g. In a conservatorship situation, if a court order under state law specifically requires funds be made available for the care and maintenance of a participant prior to his death, absent evidence to the contrary, such funds are an asset of the deceased participant's estate, even if a court has to approve release of the funds. (3-30-07)

h. Shares of stocks, bonds and mutual funds to the benefit of the deceased participant are assets of the estate. The current market value of all stocks, bonds and mutual funds must be proved as of the month preceding settlement of the estate claim. (3-30-07)

~~406.~~ **Value of Estate Assets.** The Department will use fair market value as the value of the estate assets. (3-30-07)

905. LIENS AND ESTATE RECOVERY - LIMITATIONS AND EXCLUSIONS.

201. Limitations on Estate Claims. Limits on the Department's claim against the assets of a deceased participant or spouse are subject to Sections 56-218 and 56-218A, Idaho Code. A claim against the estate of a spouse of a participant is limited to the value of the assets of the estate that had been, at any time after October 1, 1993, community property, or the deceased participant's share of the separate property, and jointly owned property. Recovery will not be made until the deceased participant no longer is survived by a spouse, a child who is under age twenty-one (21), or a blind or disabled child, as defined in 42 U.S.C. 1382c as amended and, when applicable, as provided in Subsection ~~900.09~~ 903.05 of ~~his~~ these rules. No recovery will be made if the participant received medical assistance as the result of a crime committed against the participant. (~~3-30-07~~)(7-1-10)T

~~202.~~ **Expenses Deducted From Estate.** The following expenses may be deducted from the available

assets to determine the amount available to satisfy the Department's claim: (3-30-07)

a. Burial expenses, which include only those reasonably necessary for embalming, transportation of the body, cremation, flowers, clothing, and services of the funeral director and staff may be deducted. (3-30-07)

b. Other legally enforceable and necessary debts with priority may be deducted. The Department's claim is classified and paid as a debt with preference as defined in Section 15-03-805, Idaho Code. Debts of the deceased participant that may be deducted from the estate prior to satisfaction of the Department's claim must be legally enforceable debts given preference over the Department's claim under Section 15-03-805, Idaho Code. (3-30-07)

2203. Interest on Claim. The Department's claim does not bear interest except as otherwise provided by statute or agreement. (3-30-07)

2304. Excluded Land. Restricted allotted land, owned by a deceased participant who was an enrolled member of a federally recognized American Indian tribe, or eligible for tribal membership, which cannot be sold or transferred without permission from the Indian tribe or an agency of the Federal Government, will not be subject to estate recovery. (3-30-07)

2405. Marriage Settlement Agreement or Other Such Agreement. A marriage settlement agreement or other such agreement which separates assets for a married couple does not eliminate the debt against the estate of the deceased participant or the spouse. Transfers under a marriage settlement agreement or other such agreement may be voided if not for adequate consideration. (3-30-07)

2506. Release of Estate Claims. The Department will release a claim when the Department's claim has been fully satisfied and may release its claim under the following conditions: (3-30-07)

a. When an undue hardship waiver as defined in Subsection ~~900.26~~ 905.07 of this rule has been granted; or ~~(3-30-07)~~(7-1-10)T

b. When a written agreement with the authorized representative to pay the Department's claim in thirty-six (36) monthly payments or less has been achieved. (3-30-07)

2607. Purpose of the Undue Hardship Exception. The undue hardship exception is intended to avoid the impoverishment of the deceased participant's family due to the Department exercising its estate recovery right. The fact that family members anticipate or expect an inheritance, or will be inconvenienced economically by the lack of an inheritance, is not cause for the Department to declare an undue hardship. (3-30-07)

2708. Application for Undue Hardship Waiver. An applicant for an undue hardship waiver must have a beneficial interest in the estate and must apply for the waiver within ninety (90) days of the death of the participant or within thirty (30) days of receiving notice of the Department's claim, whichever is later. The filing of a claim by the Department in a probate proceeding constitutes notice to all heirs. (3-30-07)

2809. Basis for Undue Hardship Waiver. Undue hardship waivers will be considered in the following circumstances: (3-30-07)

a. The estate subject to recovery is income-producing property that provides the primary source of support for other family members; or (3-30-07)

b. Payment of the Department's claim would cause heirs of the deceased participant to be eligible for public assistance; or (3-30-07)

c. The Department's claim is less than five hundred dollars (\$500) or the total assets of the entire estate are less than five hundred dollars (\$500), excluding trust accounts or other bank accounts. (3-30-07)

d. The participant received medical assistance as the result of a crime committed against the participant. (3-30-07)

2910. Limitations on Undue Hardship Waiver. Any beneficiary of the estate of a deceased participant may apply for waiver of the estate recovery claim based on undue hardship. Any claim may be waived by the Department, partially or fully, because of undue hardship. An undue hardship does not exist if action taken by the participant prior to his death, or by his legal representative, divested or diverted assets from the estate. The Department grants undue hardship waivers on a case by case basis upon review of all facts and circumstances, including any action taken to diminish assets available for estate recovery or to circumvent estate recovery. (3-30-07)

3011. Set Aside of Transfers. Transfers of real or personal property of the participant without adequate consideration are voidable and may be set aside by the district court whether or not the asset transfer resulted, or could have resulted, in a period of ineligibility. (3-30-07)

906. LIENS AND ESTATE RECOVERY - REQUEST FOR NOTICE.

01. Request for Notice - Notice - Hearing. The Department must notify the participant or his authorized representative, in writing, of its intention to record a request for notice, and that he has the right to a fair hearing in accordance with Subsection 900.02 of these rules. The notice must inform the participant of the following information, at a minimum: (7-1-10)T

a. The Department's determination that he is the record titleholder or purchaser under a land sale contract of real property subject to a request for notice; (7-1-10)T

b. He or his authorized representative may request a fair hearing prior to the Department's recording a request for notice. The notice must include the time limits and instructions for requesting a fair hearing; and (7-1-10)T

c. If he or his authorized representative does not request a fair hearing within the time limits specified, a request for notice applying to his real property, including his home, may be recorded. (7-1-10)T

02. Request for Notice - Forms. The request for notice, the notice of transfer or encumbrance, and the termination of request for notice may be found on the Department's website at http://healthandwelfare.idaho.gov/LinkClick.aspx?fileticket=ifI4_ujyrco%3d&tabid=123&mid=1158. The request for notice must include, at a minimum, the following information: (7-1-10)T

a. The name of the public assistance recipient and the spouse of such public assistance recipient, if any; (7-1-10)T

b. The Medicaid number for the public assistance recipient and spouse, if any; (7-1-10)T

c. The legal description of the real property affected or to be affected; (7-1-10)T

d. The mailing address at which the Department is to receive notice as provided in Section 902 of these rules; (7-1-10)T

e. If the document is a Notice of Transfer or Encumbrance, the name and address of the transferee or lien holder; and (7-1-10)T

f. A fully executed acknowledgement as required for recording under Section 55-805, Idaho Code. (7-1-10)T

~~907.~~ -- 909. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1002

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of these temporary rules are September 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 56-202(b), Idaho Code, and 2010 Legislation under House Bill 701, the Medicaid appropriations budget.

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

***SPECIAL NOTE:** Department staff will be available at the hearing site for a question and answer session about the Non-Emergency Medical Transportation rule changes beginning at 2:00 p.m. The Public Hearing will begin promptly at 2:30 p.m.*

Friday, August 13, 2010 at 2:00 p.m.

**Region IV Health & Welfare Office
1720 Westgate Drive
Suite A, Room 131
Boise, ID**

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

DESCRIPTIVE SUMMARY: The following is 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 Department of Health and Welfare is implementing a selective contract system for the federally mandated non-emergency medical transportation services based on legislative intent for controlling costs, while improving quality and sustaining access. These rules provide the non-emergency medical transportation requirements for a transportation brokerage system for Medicaid participants who have no other means to receive Medicaid-covered services.

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: N/A

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

The estimated cost avoidance for the remaining 10 months for state fiscal year 2011 using a non-emergency medical transportation brokerage contractor is \$940,775. Of this amount, \$188,155 would be state general funds, and \$752,620 would be federal funds using the current federal match rate.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to meet Medicaid's appropriations budget adopted by the 2010 Legislature under House Bill 701.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sara Stith at (208) 287-1173.

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 August 25, 2010.

DATED this 16th day of July, 2010.

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

THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT FOR DOCKET NO. 16-0309-1002

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History Check. Criminal history checks are required for certain types of providers under these rules. Providers who are required to have a criminal history check must comply with IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)

02. Availability to Work or Provide Service. (3-30-07)

a. The employer, at its discretion, may allow an individual to provide care or services on a provisional basis once the application for a criminal history and background check is completed and notarized, and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant records. (3-30-07)

b. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is completed and a clearance issued by the Department. (3-30-07)

03. Additional Criminal Convictions. Once an individual has received a criminal history clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (3-30-07)

04. Providers Subject to Criminal History Check Requirements. The following providers must receive a criminal history clearance: (3-30-07)

a. Mental Health Clinics. The criminal history check requirements applicable to mental health clinic

staff are found in Subsection 714.05 of these rules.

(3-30-07)

b. ~~Commercial Contracted Non-Emergency Medical Transportation Providers. The criminal history check requirements applicable to commercial non-emergency~~ All staff of transportation providers are found in having contact with participants must comply with IDAPA 16.05.06, "Criminal History and Background Checks," with the exception of individual contracted transportation providers defined in Subsection 8740.05 of these rules.

~~(3-30-07)~~(9-1-10)T

c. Substance Abuse Treatment Providers. The criminal history check requirements applicable to substance abuse treatment providers are found in Section 694 of these rules.

(5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

870. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES -- DEFINITIONS.

For the purposes of Sections 870 through 879 of these rules, the following definitions apply.

(9-1-10)T

01. Commercial Contracted Transportation Provider. ~~A commercial transportation provider is an entity in the business of transportation that is organized to provide, that publicly holds itself out to provide, and that actually provides personal transportation services to the general public. By "holding itself out" to the general public, the provider vigorously and diligently solicits riders from the general populace, as opposed to primarily serving riders from one (1) or more congregate living facilities. By "actually providing" services to the general public, the provider's riders include substantial numbers of persons whose travel is funded by a source other than Medicaid. A non-emergency medical transportation provider who is under contract with the transportation broker to provide non-emergency medical transportation for Medicaid participants.~~

~~(3-30-07)~~(9-1-10)T

02. Individual Contracted Transportation Provider. An individual who is under contract with the transportation broker to provide non-emergency medical transportation for a Medicaid participant in the provider's personal vehicle.

(9-1-10)T

023. Non-Commercial Emergency Medical Transportation Provider. ~~Any Non-emergency medical transportation provider that does not meet the definition of a commercial transportation provider is a non-commercial transportation provider that is:~~

~~(3-30-07)~~(9-1-10)T

a. Not of an emergency nature; and

(9-1-10)T

b. Required for a Medicaid participant to access medically necessary services covered by Medicaid when the participant's own transportation resources, family transportation resources, or community transportation resources do not allow the participant to reach those services.

(9-1-10)T

034. Agency Transporters. ~~Agency transporters are entities that provide transportation as well as at least one other service to one or more Medicaid participants. Individual transporters are non-commercial providers who transport a family member, acquaintance or other person in a personal vehicle. Transportation Broker. An entity under contract with the Department to administer, coordinate, and manage a statewide network of non-emergency medical transportation providers.~~

~~(3-30-07)~~(9-1-10)T

05. Travel-Related Services. Travel-related services are meals, lodging, and attendant care required for non-emergency medical transportation to be completed for a Medicaid participant.

(9-1-10)T

871. (RESERVED) NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES -- DUTIES OF THE TRANSPORTATION BROKER.

The transportation broker under contract with the Department is required to:

(9-1-10)T

01. Coordinate and Manage. Coordinate and manage all non-emergency medical transportation services for Medicaid participants statewide.

(9-1-10)T

02. Contract With Transportation Providers. Contract with transportation providers throughout the state to provide non-emergency medical transportation services for Medicaid participants. (9-1-10)T

03. Call Center. Operate a call center to receive and review non-emergency medical transportation for Medicaid participants meeting the requirements in Section 872 of these rules. (9-1-10)T

04. Authorize Non-emergency Medical Transportation Services. Authorize non-emergency medical transportation services for Medicaid participants requesting transportation and who meet the requirements in Section 872 of these rules. (9-1-10)T

05. Reimburse Contracted Transportation Providers. Reimburse contracted transportation providers for non-emergency medical transportation services meeting the requirements in Section 872 of these rules. (9-1-10)T

06. Safe and Professional Transportation. Assure that contracted transportation providers deliver non-emergency medical transportation services in a safe and professional manner. (9-1-10)T

872. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES -- COVERAGE AND LIMITATIONS.

01. General Coverage for Non-Emergency Medical Transportation Services. ~~Non-emergency transportation is all transportation that is not of an emergency nature, including non-medical transportation under waiver programs. An emergency is a condition described in Section 861 of these rules. Medicaid~~ The transportation broker will reimburse contracted transportation providers for non-emergency medical transportation ~~by commercial or non-commercial transportation providers services~~ under the following ~~circumstances and limitations~~ conditions: (3-30-07)(9-1-10)T

a. The travel is essential to get to or from a medically necessary Medicaid covered service ~~or a waiver service covered by Medicaid;~~ (3-30-07)(9-1-10)T

b. ~~The person for whom services are billed is actually transported for all the distance billed;~~ (3-30-07)

eb. The mode of transportation is the ~~lowest in least~~ least costly ~~to the Medicaid program~~ that is appropriate ~~to~~ for the medical needs of the participant; (3-30-07)(9-1-10)T

ed. The transportation is to the nearest medical ~~or waiver service~~ provider appropriate to perform the needed services, and transportation is by the most direct route practicable. ~~Reimbursement will be limited to the distance of the most direct route practicable; and~~ (3-30-07)(9-1-10)T

ed. Other modes of transportation, including personal vehicle, assistance by family, friends, and charitable organizations, are unavailable or impractical under the circumstances; ~~and~~ (3-30-07)(9-1-10)T

fe. The travel is authorized ~~by the Department prior to the transportation.~~ and scheduled by the transportation broker; ~~and~~ (3-30-07)(9-1-10)T

f. The contracted transportation provider is in compliance with the terms of its contract with the transportation broker. (9-1-10)T

02. Exceptions. ~~Despite the preceding rules, Medicaid will cover transportation services under the following circumstances:~~ (3-30-07)

a. ~~Transportation services may be retroactively approved when a participant is found retroactively eligible, the transportation service falls within the period of retroactive eligibility, and the transporter was a Medicaid transportation provider at the time of the transport for which reimbursement is sought.~~ (3-30-07)

~~**b.** For Subsection 872.02 of this rule, a trip is the distance a transporter carries a participant in the course of a day. Therefore, the total mileage of a round trip transport that takes place within one (1) day will be considered in determining whether this exception applies. Even though prior approval is not required, the transporter shall maintain all records as described in Subsection 874.02 of these rules. This exception is not available to commercial providers. (3-30-07)~~

~~**i.** Agency Transporters. If the trip distance is less than twenty-one (21) miles per day, prior approval for non-commercial non-waiver transport is not necessary. (3-30-07)~~

~~**ii.** Individual Transportation Providers. If the trip distance is less than two hundred (200) miles one-way or four hundred (400) miles roundtrip per day, prior approval for non-commercial non-waiver transport is not necessary. (3-30-07)~~

~~**e.** Non-Emergency transportation for Medicaid participants who are also eligible for Medicare ("dual eligibles") when they require transportation to pick up their medications covered under Medicare, Part D. (3-30-07)~~

~~**03.** **Services Incidental to Travel.** Medicaid will reimburse for the reasonable cost actually incurred of meals, lodging, a personal assistant and other necessary services incidental to travel, only as described in Section 873 and Subsection 875.02 of these rules. (3-30-07)~~

~~**04.** **Non-Commercial Transportation Provider.** Non-commercial transportation services may be performed by an agency or by an individual provider. If the Medicaid participants being transported are also participants of the transportation provider for services such as residential care, mental health, developmental therapy or other services, the provider will be considered a non-commercial provider with respect to those participants, even if the provider otherwise qualifies as a commercial transporter. A provider will be considered non-commercial with respect to any Medicaid participants transported if those participants are being transported to or from another service in which the provider has any ownership or control or if the arrangement to provide transportation is not an arm's length transaction. (3-30-07)~~

~~**05.** **Hardship Exception for Non-Commercial Transportation Providers.** The Department may grant an exception on the basis of hardship. The provider must submit information to show at minimum that its reasonable costs of vehicle operation exceed the applicable reimbursement rate. In evaluating requests for exception, the Department will consider factors such as alternative forms of services and transportation available in the area, the cost of alternatives, the appropriateness of the vehicles utilized and the benefit to participants. Special consideration may be given to any provider servicing the area through a grant from the Federal Transit Administration. The Department may limit the exception including the amount of additional reimbursement, the type of services to which transportation is being provided, and the time duration of the exception. (3-30-07)~~

~~**06.** **Out-of-State Transport.** If payment is requested for transportation costs to receive the out-of-state medical care, the Department will determine if appropriate, comparable medical care is available closer to the participant's residence. If such care is available, the Department will limit authorization to payment for transportation costs associated with a trip to the closer location. If it is determined necessary and appropriate for the medical care to be rendered at the out-of-state location, then the Department will authorize payment for transportation costs associated with a trip to the out-of-state location. Reimbursement for transportation costs to receive out-of-state medical care requires prior authorization. (3-30-07)~~

~~**02.** **Travel-Related Services.** The transportation broker will reimburse a contracted transportation provider for travel-related services under the following circumstances: (9-1-10)T~~

~~**a.** The reasonable cost of meals actually incurred in transit will be reimbursed for the participant when there is no other practical means of obtaining food. (9-1-10)T~~

~~**b.** The reasonable cost for lodging actually incurred for the participant will be reimbursed when: (9-1-10)T~~

~~**i.** The round trip and the needed medical service cannot be completed in the same day; and (9-1-10)T~~

- ii. No less costly alternative is available. (9-1-10)T
- c. The reasonable cost of wages for an attendant will be reimbursed when: (9-1-10)T
 - i. An attendant is medically necessary or when the vulnerability of the participant requires accompaniment for safety; and (9-1-10)T
 - ii. No family member or other unpaid attendant is available to accompany the participant. (9-1-10)T
 - d. The reasonable cost of meals actually incurred in transit will be reimbursed for one (1) family member or one (1) attendant, when: (9-1-10)T
 - i. Attendant care is medically necessary or when the vulnerability of the participant requires accompaniment for safety; and (9-1-10)T
 - ii. There is no other practical means of obtaining food. (9-1-10)T
 - e. The reasonable cost of lodging actually incurred will be reimbursed for one (1) family member or one (1) attendant when: (9-1-10)T
 - i. An overnight stay is required to receive the service; (9-1-10)T
 - ii. It is medically necessary or the vulnerability of the participant requires accompaniment for safety; (9-1-10)T
 - and
 - iii. No less costly alternative is available. (9-1-10)T

873. ~~NON-EMERGENCY TRANSPORTATION SERVICES: PROCEDURAL REQUIREMENTS.~~
Authorization for the travel reimbursement must be requested from the Department at least twenty-four (24) hours in advance of the travel excluding Saturdays, Sundays, and state holidays, unless one of the exceptions described in Subsection 872.02.a. or Subsection 872.02.b. of these rules applies. (3-30-07)

874. ~~NON-EMERGENCY TRANSPORTATION SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.~~

~~**01. Commercial Transportation Providers.** Each commercial transportation provider must, at minimum, meet the following standards:~~ (3-30-07)

~~**a.** Maintain all certifications and licenses for drivers and vehicles required by all public transportation laws, regulations, ordinances that apply to the transportation provider.~~ (3-30-07)

~~**b.** Adhere to all laws, rules and regulations applicable to transportation providers of that type, including those requiring liability insurance. Liability insurance will be carried in an amount to cover at least five hundred thousand dollars (\$500,000) personal injury and five hundred thousand dollars (\$500,000) property damage per occurrence.~~ (3-30-07)

~~**c.** Enter into a Medicaid provider agreement and enrollment application.~~ (3-30-07)

~~**d.** Each commercial provider must maintain the following records for a minimum of five (5) years:~~ (3-30-07)

~~**i.** Prior authorization documents.~~ (3-30-07)

~~**ii.** Name of participant and Medicaid ID number.~~ (3-30-07)

~~**iii.** Date, time, and geographical point of pick-up for each participant trip.~~ (3-30-07)

- ~~iv. Date, time, and geographical point of drop-off for each participant trip. (3-30-07)~~
- ~~v. Identification of the vehicle(s) and driver(s) transporting each participant on each trip, and total miles for the trip. (3-30-07)~~
- ~~e. Verify that all staff having contact with participants have complied with IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)~~

~~**02- Non-Commercial Transportation Providers.** Each non-commercial transportation provider must, at minimum, meet the following standards: (3-30-07)~~

~~**a.** Continuously maintain liability insurance that covers passengers. For agency providers, coverage must be at least one hundred thousand (\$100,000) per individual and three hundred thousand (\$300,000) each incident. Individual providers must carry at least the minimum liability insurance required by Idaho law. If an agency permits employees to transport participants in employees' personal vehicles, the agency must ensure that adequate insurance coverage is carried to cover those circumstances. (3-30-07)~~

~~**b.** Obtain and maintain all licenses and certifications required by government to conduct business and to operate the types of vehicles used to transport participants. Agencies must maintain documentation of appropriate licensure for all employees who operate vehicles. (3-30-07)~~

~~**e.** Adhere to all laws, rules, and regulations applicable to drivers and vehicles of the type used. (3-30-07)~~

~~**d.** Enter into a Medicaid enrollment application and provider agreement. (3-30-07)~~

~~**e.** Records. Each non-commercial transportation provider must, at the time of transport, collect the following information, and must maintain it for a minimum of five (5) years: (3-30-07)~~

~~i. Participant name and Medicaid ID number for each trip. (3-30-07)~~

~~ii. Date, time, geographical point of pick-up and odometer reading at pick-up for each participant trip. (3-30-07)~~

~~iii. Date, time, geographical point of drop-off and odometer reading at drop-off for each participant trip. (3-30-07)~~

~~iv. Mileage each participant was transported for each trip billed. (3-30-07)~~

~~v. Identification of the vehicle and driver transporting each participant on each trip. (3-30-07)~~

~~vi. Notice of prior authorization, when required. (3-30-07)~~

~~**875. NON-EMERGENCY TRANSPORTATION SERVICES: PROVIDER REIMBURSEMENT.**~~

~~**01- Submission of Transportation Claims.** All transportation claims must be on a CMS-1500 Claim form and must include a trip-related authorization number where prior authorization is required. Payment must not be made in advance of the service being rendered. (3-30-07)~~

~~**02- Claims for Travel-Related Services.** All claims for travel-related services must be supported by receipts, or other verification of the date, place, the amount of and the nature of services that were performed. Medicaid will not pay for claimed services that are not verifiable by contemporaneous documentation. (3-30-07)~~

~~**a.** Travel covered by the service to which the participant is being transported is not reimbursable as a separate service; and (3-30-07)~~

~~**b.** Transportation is paid on a reimbursement basis only; payment will not be issued prior to delivery of the service. (3-30-07)~~

~~**e.** The reasonable cost of meals actually incurred in transit will be approved when necessary, when there is no other practical means of obtaining food, and only when an overnight stay is required to receive the service. Reimbursement must not exceed seven dollars (\$7) per meal or a maximum of twenty-one dollars (\$21) per day per person. (3-30-07)~~

~~**d.** The reasonable cost actually incurred for lodging will be approved when the round trip and the needed medical service, in practicality, can not be completed in the same day. The travel must entail a one (1) way distance of at least two hundred (200) miles, or a normal one (1) way travel time of at least four (4) hours. The incidental travel expenses of a family member or other companion will be covered when medical necessity or the vulnerability of the individual requires accompaniment for safety, and no less costly alternative is available. Lodging reimbursement will not be paid when the stay is in the home of a relative or acquaintance. (3-30-07)~~

~~**03. Commercial Transportation.** A statewide uniform payment rate must be established through a study conducted no less frequently than each third year, that evaluates the actual charges of, and costs reasonably incurred by the typical commercial transportation provider, together with the reasonable administrative costs incurred by the typical provider in keeping records for Medicaid-related transportation and billing the Department. (3-30-07)~~

~~**04. Non-Commercial Providers—Agency and Individual.** (3-30-07)~~

~~**a.** Agency Provider Reimbursement. A statewide uniform payment rate must be established through a study conducted no less frequently than each third year, that evaluates the actual costs reasonably incurred by the typical agency transportation provider, together with the reasonable administrative costs incurred by the typical agency transportation provider in keeping records for Medicaid-related transportation and billing the Department. (3-30-07)~~

~~**b.** Individual Provider Reimbursement. A uniform payment rate must be established through a study conducted no less frequently than each third year, that evaluates the actual costs of fuel reasonably incurred by the typical non-commercial transportation provider whose personal vehicle averages fifteen (15) miles per gallon. (3-30-07)~~

8763. -- 879. (RESERVED).

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-1001 (FEE RULE)

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 67-4210, 67-4223, and 67-4249, 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 August 18, 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 Idaho Department of Parks and Recreation proposes the following six changes to IDAPA 26.01.20:

Proposal # 1 - Establish an Overnight Use Fee (charged to non-camping customers who choose to park a vehicle overnight on park property).

Proposal # 2 - Establish Campground Amenity Fees to be charged in addition to the camping fees charged for standard campsite types at locations providing central water amenity, and an additional fee for locations providing flush-toilets/showers as an amenity.

Proposal # 3 - Increase Entrance Annual Pass; Increase Entrance Annual Pass Second Pass; and Increase the Entrance Fee Surcharge (penalty levied on customers who fail to pay).

Proposal # 4 - Increase Camping Extra Vehicle Fee.

Proposal # 5 - Increase Moorage, Overnight; Increase Moorage, Camping on Vessel; Increase Moorage, Camping on Buoy.

Proposal # 6 - Strike Subsection 275.02 (Individual campsite and facility reservations) and Subsection 275.03 (Multiple campsite and facility reservations) from this rule.

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:

The proposed rule changes are required to better position the IDPR to respond to future economic and budget fluctuations. They are necessary due to the immediate danger to State Park Operations as a result of the current state budget deficit and the resulting decrease of general fund support for the Department of Parks and Recreation.

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

Five of the six proposed rule changes involve fees collected by the Department of Parks and Recreation based on authority granted in Section 67-4223, Idaho Code. They are as follows:

Proposal # 1 - New fee of \$10 per night per non-camper vehicle parked overnight.

Proposal # 2 - New fee of \$2 per night per amenity provided.

Proposal # 3 - Increase Entrance Annual Pass from \$35 to \$40; Increase Entrance Annual Pass Second Pass from \$5 to \$15; and Increase the Entrance Fee Surcharge from \$5 to \$10.

Proposal # 4 - Increase Camping Extra Vehicle Fee from \$5 to \$8.

Proposal # 5 - Increase Moorage Overnight from \$5 to \$9 per night; Increase Moorage Camping on Vessel from \$8 to \$10 per night; Increase Moorage Camping on Buoy from \$5 to \$9 per night.

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

There will be no negative impact to the state's general fund by any of the proposed rule changes; however, it is anticipated that there will be a positive impact to the agency's dedicated funds. Given the current economic climate, it is impossible to realistically project what that impact will actually be for each of the proposed fee changes; however it is anticipated that the revenue generated by each of the individual proposals will be as follows:

Proposal # 1 - Approximately \$29,100 based on historical usage patterns.

Proposal # 2 - Approximately \$59,080 based on historical usage patterns.

Proposal # 3 - Approximately \$138,875 based on historical usage patterns.

Proposal # 4 - Approximately \$60,000 based on historical usage patterns.

Proposal # 5 - Approximately \$3,700 based on historical usage patterns.

Proposal # 6 - While not specifically a fee change, this proposal provides for the potential of increased revenue by allowing for additional opportunities for customers to utilize the fee services offered by the IDPR. This change will allow the agency to respond more quickly to customer demands, market trends, and industry standards.

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

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2) (a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact David M. Ricks, 208-514-2450.

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 August 25, 2010.

DATED this 15th day of July, 2010.

David M. Ricks, Deputy Director
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, ID 83716-8700
PO Box 87320, Boise ID 83720-0065
Telephone: 208.514.2450
FAX 208.334-3741

THE FOLLOWING IS THE TEMPORARY RULE
AND PROPOSED TEXT FOR FEE DOCKET NO. 26-0120-1001

225. FEES AND SERVICES.

01. Authority. (3-13-97)

a. The Board shall adopt fees for the use of lands, facilities, and equipment. Visitors shall pay all applicable fees. (3-7-03)

b. Park managers or designees may set fees for goods available for resale and services provided by staff that enhance the users experience unique to the individual park. Fees for lands, facilities and equipment unique to an individual park will be posted at that site. (3-7-03)

02. General Provisions. All fees in this chapter are maximum fees unless otherwise stated. Actual fees charged shall be established by Board Policy. (3-7-03)

03. Camping. Camping fees include the right to use designated campsites and facilities for the period camp fees are paid. Utilities and facilities may be restricted by weather or other factors. (3-16-04)

04. Group Use. (7-1-93)

a. Groups of twenty-five (25) persons or more, or any group needing special considerations or deviations from these rules shall obtain a permit. Permits may be issued after arrangements have been made for proper sanitation, population density limitations, safety of persons and property, and regulation of traffic. (3-30-06)

b. Permits for groups of up to two hundred fifty (250) people may be approved by the park manager with thirty (30) days advance notice. Permits for groups of two hundred fifty (250) to one thousand (1,000) may be approved by the Director with forty-five (45) days advance notice. Groups over one thousand (1,000) may be approved by the Board with sixty (60) days advance notice. The Director may approve groups over one thousand (1,000) with thirty (30) days advance notice, if they are repeat users. (1-1-94)

c. The day use fee may be charged to groups entering a designated area for a non-camping visit. (3-30-06)

05. Fees and Deposits. Fees and deposits may be required for certain uses or the reservation of certain facilities unique to an individual park and will be posted at that site. (3-30-06)

06. Fee Collection Surcharge. A ~~five ten~~ dollar (\$~~510~~) surcharge may be added to all established fees when the operator of a motorized vehicle or responsible party of a camping unit fails to pay required fees prior to entering a park area or occupying a campsite. If the surcharge is assessed, and the operator of the vehicle or responsible party is not present, all required fees in addition to the ~~five ten~~ dollar (\$~~510~~) surcharge will be assessed against the registered owner of the motorized vehicle or camping unit. (~~3-30-06~~)(7-1-10)T

07. Admission Fees. A maximum per person fee of ten dollars (\$10) may be charged for internal park facilities which provide an educational opportunity or require special accommodations. (3-10-00)

08. Cooperative Fee Programs. The Department may collect and disperse fees in cooperation with fee programs of other state and federal agencies. (3-10-00)

226. -- 249. (RESERVED).

250. FEE SCHEDULE.

01. Campsites.

CAMPSITE FEE TABLE	
Primitive Campsite No amenities at site, camping area not defined	\$13/day
Standard Campsite Any defined campsite, either tent pad or RV pad/area (may include: table and/or grill)	\$16/day
Serviced Campsite/ W Any defined campsite, either tent pad or RV pad/area, with water at site (may include: table and/or grill)	\$20/day
Serviced Campsite/ E Any defined campsite, either tent pad or RV pad/area, with electricity at site (may include: table and/or grill)	\$20/day
Serviced Campsite/ W, E Any defined campsite, either tent pad or RV pad/area, with water and electricity at site (may include table and/or grill)	\$24/day
Serviced Campsite/ W, E, SWR Any defined campsite, either tent pad or RV pad/area, with water, electricity, and sewer at site (may include table and/or grill)	\$26/day
Companion Campsite May be any campsite type, regardless of amenities, that has greater equipment/people capacity (may include table and/or grill) Fee determined by actual site type.	Site type multiplied by two (2)
<u>Amenity Fee for Central Water</u> <u>Applies to "Standard" campsites in campgrounds with a central water supply. The Amenity Fee is charged in addition to the Standard Campsite fee.</u>	<u>\$2/night</u>
<u>Amenity Fee for Flush-Toilets/Showers</u> <u>Applies to "Standard" campsites in campgrounds with Flush-Toilets/Showers. The Amenity Fee is charged in addition to the Standard Campsite fee.</u>	<u>\$2/night</u>
Use of Campground Showers by Non-campers	\$3/person
<u>Overnight Use Fee</u> <u>Applies to non-campers leaving a vehicle unattended on park property overnight.</u>	<u>\$10/night</u>
Limited Income Discount - Idaho residents showing proof of limited income (Medicaid card or other evidence approved by the Board) may receive a camping fee discount of:	\$4/day
Resident Disabled Idaho Veterans - Campsite fees are waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability	
Senior Citizen Discount - Pursuant to Section 67-4223, Idaho Code, and at the discretion of the Director, IDPR may provide, at selected under utilized locations and times, a senior citizen discount,	Maximum 50% of RV camping fee
Extra Vehicle Charge	\$78 /day
Camping Cabins and Yurts	\$150/night
Each additional person above the sleeping capacity of camping cabin or yurt	\$12/night

~~(4-9-09)~~(7-1-10)T

02. Reservation Service Fees, Individual Campsite or Facility. A non-refundable non-transferable (from one (1) party to another) service charge of ten dollars (\$10) may be assessed for each individual campsite or facility reserved. This fee will be waived for campers with a current Idaho RV registration sticker and reimbursed to the Department by the RV Program. A service charge of ten dollars (\$10) or the first night's fee, whichever is less, will be assessed for the cancellation or modification of each individual campsite or facility reserved that involves reducing the planned length of stay or to change the reservation dates where part of the new stay includes part of the original stay booked (rolling window) if notice is received more than twenty-four (24) hours in advance of the scheduled arrival time. Cancellations or modifications made less than twenty-four (24) hours in advance of the scheduled arrival time shall result in assessment of a ten dollar (\$10) service charge and may require the forfeiture of the first night's camping fee. Modifications that change the original stay so that no part of the new stay includes part of the original stay are to be considered a cancellation and a re-book will be required. (3-30-06)

03. Day Use Fee.

DAY USE FEE TABLE.	
Daily charge per motorized vehicle. The day use fee expires at 10:00 p.m. on date of purchase or as posted Overnight camping guests are exempt from this fee.	\$5
Daily charge per commercial motor coach (no annual pass available)	\$25
Statewide Annual State Park Passport per motorized vehicle	\$35 40
Disabled Idaho Resident Veterans - The day use fee is waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability	
Second Vehicle Annual Passport.	\$15

~~(3-30-06)~~(7-1-10)T

04. Special Charges. The cost to the agency for returned checks will be passed on to the issuer of the insufficient funds check. (3-7-03)

05. Group Facility Fees. Reservation service fee, designated group campground or facility. (3-30-06)

a. A non-refundable, non-transferable (from one (1) party to another) service charge of twenty-five dollars (\$25) will be assessed per designated group area or facility reserved. This fee will be charged in addition to the usage fees for each group or campsite or facility. (3-30-06)

b. Groups using overnight facilities shall be charged three dollars (\$3) per person per night camping fees for each individual above the authorized base occupancy rate for the specific site or facility. (3-30-06)

c. Cleaning/damage deposits may be required for certain facilities. Where cleaning/damage deposits are required, they shall be paid prior to check-in. Cleaning/damage deposits shall be fully refunded if the facility is left in the same condition in which it was accepted. (3-30-06)

d. Group use fees for day use facilities may be negotiated by the park manager or designee and will generally not fall below the cost of providing services. (3-30-06)

06. Boating Facilities.

BOATING FACILITIES FEE TABLE	
Vessel launching (per vessel/per day) (Annual park passport or day use fee apply toward vessel launching fees)	\$5/ day

BOATING FACILITIES FEE TABLE	
Overnight moorage - any length of vessel. (Applicable to persons who have paid for a park campsite and are not camping on the vessel)	\$59/night
Overnight moorage - persons camping on vessel	
Any length vessel	\$810/night
Any length vessel moored at buoy	\$59/night

(3-30-06)(7-1-10)T

07. Modification of Fees. Additional fees or deposits may be required for certain uses or for the reservation of certain facilities. The Department reserves the right to waive or reduce fees and charges for Department sponsored promotions. (7-1-93)

08. Sales Tax. Applicable sales tax may be added to all sales excluding the day use fee. (3-30-06)

09. Length of Stay. Fifteen (15) days in any consecutive thirty (30) day period. (3-30-06)

10. Nordic Ski Grooming Program Fee. A fee of four dollars (\$4) per person per day and thirty-five dollars (\$35) per family per season will be required at Board-approved premium Nordic ski grooming program locations. These programs may include: maintained parking areas, warming facilities, winter accessible restroom facilities, regularly groomed ski trails, extensive signing, trail mapping and ski patrol services. (3-16-04)

251. -- 274. (RESERVED).

275. CRITERIA FOR INDIVIDUAL CAMPSITE, CAMPING CABIN, AND YURT RESERVATIONS.

01. Confirmation Requirements. (3-30-06)

a. Confirmation of an Individual Campsite or Facility Reservation. Full payment of all appropriate camping and related service fees shall be made before a reservation is confirmed. (3-30-06)

b. Confirmation of a Designated Group Campground or Facility Reservation. (3-30-06)

i. Payment of the first night or daily base rate fee for a group facility and all related service fees shall be made before a reservation is confirmed. (3-30-06)

ii. Payment of all camping and related service fees applicable for each campsite or facility reserved within a group campground must be paid at the time of booking before a reservation is confirmed. (3-30-06)

02. Individual Campsite and Facility Reservations. Reservations for individual campsites, and facilities ~~may be made anytime up to nine (9) months in advance but no less than two (2) days prior to the scheduled date of arrival. Reservations may be accepted greater than nine (9) months in advance or less than two (2) days prior to the scheduled date of arrival only with the approval of the Operations Division Administrator or designee. All non-reservation camping is on a "first come first served" basis~~ shall be managed in accordance with rules promulgated by the Idaho Park and Recreation Board. (3-30-06)(7-1-10)T

~~**03. Multiple Campsite and Facility Reservations.** Multiple reservations for individual campsites or facilities may be made up to nine (9) months in advance of the scheduled arrival date. Multiple campsite reservation limitations are subject to destination park's campground design and capacity. Reservations may be accepted greater than nine (9) months in advance of arrival only with the approval of the Operations Division Administrator or designee. (3-30-06)~~

043. Reservation Modifications. Individual and group campsite(s) or facilities. A reservation service fee will be assessed for any modification to a previously made reservation that involves reducing the planned length of stay, or to change the reservation dates where part of the new stay includes part of the original stay booked (rolling

window). With the exception of the reservation service fees as defined in Subsection 250.02, any overpaid fees will be reimbursed at the time the reservation is modified. (3-30-06)

054. Reservation Cancellations. (3-7-03)

a. Individual Site or Facility. A reservation service fee will be assessed for the cancellation of a reservation. This service fee will be assessed for each campsite or facility involved. If the customer cancels after the scheduled arrival date the customer forfeits all usage fees for the time period already expired. Cancellations received after checkout time will result in the forfeiture of that day's usage fees for the campsite or facility. At no time shall the customer be charged a cancellation fee that exceeds the amount originally paid. The IDPR or its reservation service provider may cancel a customer's reservation for insufficient payment of fees due. With the exception of the reservation service fees, all fees paid will be reimbursed at the time the reservation is cancelled. (3-30-06)

b. Designated Group Campsite or Facility. A reservation service fee will be assessed for the cancellation of a reservation. If a cancellation for a group facility occurs fewer than twenty-one (21) calendar days prior to arrival, the customer forfeits the first night or daily facility usage fees (base rate). If a cancellation for a group facility occurs more than twenty-one (21) calendar days prior to arrival, a cancellation charge of fifty dollars (\$50.00) will be assessed. If the customer cancels after the arrival date the customer forfeits all usage fees for the time period already expired. Cancellations received after checkout time will result in the forfeiture of that day's usage fees for the campsite or facility. At no time shall the customer be charged a cancellation fee that exceeds the amount originally paid. The IDPR or its reservation service provider may cancel a customer's reservation for insufficient payment of fees due. An individual site cancellation fee applies to each campsite in a group campground. With the exception of the reservation service fees, all fees paid will be reimbursed at the time the reservation is cancelled. (3-30-06)

065. Park Manager Authority. The park manager or designee may deny entry to, or reservation of, any Department unit, campsite, or facility, to any individual whose prior documented behavior has violated Department rules or whose in-park activities are incompatible with the park's operation. (3-30-06)

IDAPA 35 - IDAHO STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1002
NOTICE OF RULEMAKING - TEMPORARY 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. The action is authorized pursuant to Section 63-105, Idaho Code.

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

Rule 137 is being added due to the passage of House Bill 384 by the 2010 Legislature. This rule will require an instate pipeline terminal operator to report ethanol that was placed into storage at its Idaho pipeline terminal. This information will help the Tax Commission to account for all ethanol that was imported into the state by tanker truck or railcar.

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: For assistance on technical questions concerning the temporary rule, contact Randy Nilson at (208) 334-7544.

DATED this 11th day of June, 2010.

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

THE FOLLOWING IS THE TEMPORARY RULE TEXT FOR DOCKET NO. 35-0105-1002

136. ~~139.~~ (RESERVED).

137. INSTATE PIPELINE TERMINAL, PRODUCTION TERMINAL AND STORAGE REPORTS (RULE 137).

01. Monthly Reports. Every instate pipeline terminal operator and production terminal operator shall file with the state tax commission a monthly tax report and supporting detailed schedules on forms prescribed by the state tax commission. The pipeline terminal operator and production terminal operator must keep detailed inventory records. The number of gallons of motor fuels and other petroleum products shall be stated in gross gallons on all reports. The pipeline terminal operator and production terminal operator shall report the quantity of motor fuels and other petroleum products received during the month including a listing of each person from inside and/or outside Idaho supplying motor fuels and other petroleum products to the pipeline terminal or production terminal. 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: (7-1-10)T

a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-10)T

b. The total quantity of motor fuels or other petroleum products received or produced during the month including gasoline blend stocks and ethanol; (7-1-10)T

c. The total quantity of motor fuels and other petroleum products disbursed during the month on a load-by-load basis; and (7-1-10)T

d. The ending inventory of motor fuels and other petroleum products on the last day of the month. (7-1-10)T

02. 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. (7-1-10)T

138. -- 139. (RESERVED).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1001

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 rule-making procedures. The action is authorized pursuant to Section 40-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 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 rule-making:

This rulemaking increases the limitations for permitted vehicle combinations on "blue-coded routes," from ninety (90) to ninety-five (95) feet in overall length including load overhang. This still allows the vehicles to operate within the maximum off-tracking limitations. It also eliminates redundant language from Subsection 200.04 regarding connecting devices. With the exception of amendments to Subsection 200.04, this rulemaking was approved by the 2010 Legislature as a Temporary Docket, effective December 1, 2009. It will expire at the end of the 2011 Session and be replaced by this rulemaking.

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 rulemaking was initiated at the request of representatives from the logging industry and is being promulgated on the basis of successful testing of the longer vehicle combinations on selected "blue-coded routes."

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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 August 25, 2010.

DATED this 1st day of July, 2010.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

Pursuant to Section 67-5221(1), Idaho Code,
this docket is now being published as a Proposed Rule.

With the exception of the change in Subsection 200.04, this docket was previously published as a Temporary Rule, which is currently in effect, and will remain in effect until the end of the next legislative session. The temporary effective date is December 1, 2009.

The original text of the Temporary Rule was published in the Idaho Administrative Bulletin, [Volume 10-3, March 3, 2010, pages 14 through 16.](#)

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 39-0322-1001

000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles which are in excess of the sizes allowed by 49-1004 and 49-1010, is adopted under the authority of Sections 40-312 ~~and 49-1004~~, Idaho Code. ~~(10-2-89)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street And Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (3-20-04)

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. ~~(3-20-04)~~(____)

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

200. CONDITIONS AND REQUIREMENTS FOR EXTRA-LENGTH.

Extra-length vehicle combinations shall be subject to the following conditions, limitations, and requirements: (10-2-89)

01. Extra-Length Vehicle Combinations. Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (3-20-04)

02. Routes for Extra-Length Operations. Shall be designated in four (4) categories: (9-4-91)

a. Routes for combinations not exceeding ninety-five (905) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety-five (905) foot

combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off-track. ~~(3-22-00)~~(_____)

b. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred fifteen (115) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation referred to above. (3-20-04)

c. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). An extra-length combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed by the WHI equation referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. (3-22-00)

d. Selected state highway routes (green coded routes) for operation of an extra-length combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. (8-25-94)

03. Power Unit. The power unit of extra-length combinations shall have adequate power and traction to maintain a minimum of fifteen (15) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (10-2-89)

04. Connecting Devices. Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393, ~~which shall be considered to be a part of this rule.~~ ~~(10-2-89)~~(_____)

05. Weather Restrictions. Extreme caution in the operation of an extra length vehicle combination shall be exercised when hazardous conditions such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction. Speed shall be reduced when such conditions exist. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra length vehicle combination can be safely operated. The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable. (8-25-94)

06. Trailer Weight Sequence. In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

07. Operating Restrictions. Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

a. A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

b. Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

c. Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

08. Insurance Requirements. Every combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (8-25-94)

09. Tire Limitations. Single axles on extra-length vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed the limits as listed in Section 49-1002, Idaho Code. (5-8-09)

IDAPA 44 - OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

DOCKET NO. 44-0000-1001

NOTICE OF LEGISLATIVE ACTION RELATING TO THE REMOVAL OF OBSOLETE STATUTORY LANGUAGE AFFECTING VARIOUS CHAPTERS OF THE ADMINISTRATIVE CODE SENATE BILL 1330A - SESSION LAW CHAPTER 235

EFFECTIVE DATE: The effective date of this action is July 1, 2010.

AUTHORITY: In compliance with Sections 67-5203, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Sixtieth Idaho Legislature in the Second Regular Session - 2010, passed Senate Bill 1330a, affecting various administrative rules of the state of Idaho, and that said bill was signed into law by Governor C.L. "Butch" Otter, Session Law Chapter 235. The amendments made to existing law remove archaic statutory language and this same language is being removed from the Administrative Code to comply with these changes.

DESCRIPTIVE SUMMARY: The following is a statement of the substance of the legislative action and a brief description of the corrective action being taken:

Amends and adds to existing law relating to archaic statutory language to revise terminology; to remove redundant language; to remove obsolete language; and to provide legislative intent on respectful language.

Pursuant to Section 67-5202(2), Idaho Code, and further complying with the legislative intent of Senate Bill 1330a, these archaic terms are being corrected as clerical revisions to the Administrative Code. Because these changes do not alter the sense, meaning or intent of the rules, they are being made outside regular rulemaking procedures. Previous references to "mental retardation," "mentally retarded," and "retarded" now say "intellectual disabilities," "people with intellectual disabilities," and "intellectually disabled."

These statutory changes affect various rule chapters of the Administrative Code and particularly affect certain chapters of the Department of Health and Welfare, including IDAPA 16.03.10 and 16.03.11. These non-substantive changes have been made to the rules to remove this obsolete language and to initiate the use of "people first" terminology as it relates to intellectual disabilities pursuant to SB1330a.

Pursuant to Section 67-5204, Idaho Code, these changes will be codified into the official on line edition of the 2010 Idaho Administrative Code.

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact Dennis Stevenson, Administrative Rules Coordinator, (208) 332-1820.

DATED this 7th day of July, 2010.

Dennis Stevenson
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Department of Administration
PO Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 332-1896

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
THE UPPER AND LOWER HENRY'S FORK TOTAL MAXIMUM DAILY LOADS
(TMDLS) (HUCS 17040202 & 17040203)

DOCKET NO. 58-0000-1003
NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Upper and Lower Henry's Fork Total Maximum Daily Loads (TMDLs).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Upper and Lower Henry's Fork TMDLs. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Upper and Lower Henry's Fork TMDLs (Hydrologic Unit Codes 17040202 & 17040203) addresses twelve (12) assessment units (AUs)/pollutant combinations listed as impaired on Idaho's 2008 § 303(d) list and four (4) unlisted but impaired AUs/pollutant combinations. DEQ completed TMDLs for all AU/pollutant combinations deemed water quality impaired. DEQ has submitted this TMDL document to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

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

Dated this 24th day of June, 2010.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0904

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. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 19, 2010. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking in response to a Petition for Initiation of Rulemaking filed by Idaho Conservation League (ICL) and P4 Production, LLC (P4). In the petition, ICL and P4 requested that the Board of Environmental Quality direct DEQ to initiate negotiated rulemaking to solicit public comment and involvement in developing air quality rules designed to limit and control mercury emissions from certain facilities. The petition was granted by the Board on July 29, 2009.

By August 11, 2010, a "white paper" providing assistance in understanding and achieving compliance with the requirements of these rules is available for review and may be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0904_proposed.cfm or by contacting the undersigned.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2010 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon adjournment of the 2011 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. On October 7, 2009, the Notice of Negotiated Rulemaking was published in the [Idaho Administrative Bulletin, Vol. 09-10, page 496](#), and a preliminary draft negotiated rule was made available for public review. Meetings were held on October 28, 2009, January 6, 2010, April 29, 2010, and June 10, 2010. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments. A record of the negotiated rule drafts, written comments received, and documents distributed during the negotiated rulemaking process is available at http://www.deq.idaho.gov/rules/air/58_0101_0904_proposed.cfm.

IDAHO CODE SECTION 39-107D STATEMENT: *(1) The legislature directs that any rule formulated and recommended by the department to the board which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under [chapter 52, title 67, Idaho Code](#), must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.*

The proposed rule is not more stringent than federal law. IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho," incorporates U.S. EPA regulations that address mercury. See IDAPA 58.01.107.03.i. Sources within a source category subject to regulation under federal mercury rules are specifically exempt from this proposed rule. See IDAPA 58.01.01.215.01 and 401.02.b. (proposed rule). Thus, the proposed rule does not propose a more stringent standard, emission limit or control technology requirement than specifically prescribed by the federal Clean Air Act or the U.S. EPA. The proposed rule does address mercury emissions from sources whose mercury emissions are not regulated under federal law. It requires that best available control technology be installed on new or modified sources with the potential to emit mercury, or existing sources with actual emissions of mercury, at certain threshold levels. An argument could be made that the proposed rule is broader in scope than federal law, as it does regulate an activity not regulated by federal law.

(2) To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize:

(a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

Mercury is widely recognized as a toxic element with significant health effects (particularly neurological effects on developing fetuses) (Clarkston 2006, EPA 2001, EPA 2009). It has been recognized as a hazardous air pollutant by Congress (under the Clean Air Act) and EPA. Regulations have been promulgated at the federal and state level to minimize mercury emissions. (EPA 2005b, NDEP 2006, DNR 2008) Deposition of mercury air emissions can eventually lead to bio-accumulation of mercury (as methylmercury) in fish which can lead to human exposure from fish consumption. (Mason, 1995)

(b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justify use of the data.

Idaho DEQ has collected data in order to characterize the extent of mercury contamination throughout Idaho. (DEQ 2007b, DEQ 2008, DEQ 2009). All data collection events have followed a Quality Assurance Project Plan. The fish sampling performed by IDEQ has resulted in 19 fish advisories across the state.

(3) Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under [chapter 52, title 67, Idaho Code](#), the following additional information:

(a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects; and

The population at risk are those who eat fish caught in the state of Idaho. Of particular concern are women of childbearing age, those pregnant, planning to become pregnant, or nursing; and children under the age of 15. (IFCAP 2009) There is also an ecological risk to fish and other species that eat fish.

(b) Identification of the expected risk or central estimate of risk for the specific population or receptor; and

The expected risk from mercury exposure are neurological. This is consistent with recent federal and other state analyses. Several studies have been performed that evaluate the IQ decrements among kids of fish eating populations.

(c) Identification of each appropriate upper bound or lower bound estimate of risk; and

A person's risk depends on a number factors including: the amount of Idaho fish consumed, the size of the fish, and the source of the fish. (IFCAP 2009) There is also risk from eating non-Idaho fish including store-bought fish.

(d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and

There are three major studies that have documented the health outcomes from eating fish contaminated with methyl mercury. Two of them (Faroe Islands and New Zealand) document evidence of in utero neurological impacts from low level exposures to methyl mercury.(Grandjean 1997, Crump 1998) Another study from the Seychelles does not support this conclusion. (Myers 2003) The National Research Council believes that when all of the data is

considered there is still enough evidence to minimize low-level exposure to methyl mercury. (Stern 2004) This is the position taken by EPA when they promulgated CAMR and when they developed an oral reference dose for mercury. (EPA 2005b, EPA 2009) There have also been recent articles that discuss the mitigation of the neurological effects of mercury by selenium. This is an area of active research and no scientific consensus has been determined. (Peterson 2009)

DEQ acknowledges that one cannot technologically conclude that a specific reduction of mercury emissions from a local source will result in a specific reduction of mercury in Idaho's fish. This proposed rule constitutes Idaho's best effort to ensure that significant sources of mercury emissions employ the best available control measures. As a result, the state can conclude it is doing its best to reduce its impact on the global pool of mercury emissions, which do in fact impact Idaho's resources.

(e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

The studies known to DEQ are listed above. See response to (d) above.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

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

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 1, 2010.

DATED this 6th day of July, 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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 58-0101-0904

006. GENERAL DEFINITIONS.

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (4-5-00)

02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)

03. Actual Emissions. The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: (4-5-00)

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (4-5-00)

b. The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (4-5-00)

c. For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (4-5-00)

d. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. (4-5-00)

04. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I Area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (3-30-07)

a. Times of visitor use of the Federal Class I Area; and (3-30-07)

b. The frequency and timing of natural conditions that reduce visibility. (3-30-07)

c. This term does not include affects on integral vistas when applied to 40 CFR 51.307. (3-30-07)

05. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof. (4-5-00)

06. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (4-5-00)

07. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)

08. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)

09. Allowable Emissions. The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (4-5-00)

a. The applicable standards set forth in 40 CFR part 60 and 61; (4-5-00)

- b.** Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (4-5-00)
- c.** The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (4-5-00)
- 10. Ambient Air.** That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)
- 11. Ambient Air Quality Violation.** Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (4-11-06)
- 12. Atmospheric Stagnation Advisory.** An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (4-11-06)
- 13. Attainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. (4-11-06)
- 14. BART-Eligible Source.** Any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit two hundred fifty (250) tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. (3-30-07)
- a.** Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- b.** Coal cleaning plants (thermal dryers); (3-30-07)
- c.** Kraft pulp mills; (3-30-07)
- d.** Portland cement plants; (3-30-07)
- e.** Primary zinc smelters; (3-30-07)
- f.** Iron and steel mill plants; (3-30-07)
- g.** Primary aluminum ore reduction plants; (3-30-07)
- h.** Primary copper smelters; (3-30-07)
- i.** Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day; (3-30-07)
- j.** Hydrofluoric, sulfuric, and nitric acid plants; (3-30-07)
- k.** Petroleum refineries; (3-30-07)
- l.** Lime plants; (3-30-07)
- m.** Phosphate rock processing plants; (3-30-07)
- n.** Coke oven batteries; (3-30-07)
- o.** Sulfur recovery plants; (3-30-07)

- p. Carbon black plants (furnace process); (3-30-07)
- q. Primary lead smelters; (3-30-07)
- r. Fuel conversion plants; (3-30-07)
- s. Sintering plants; (3-30-07)
- t. Secondary metal production facilities; (3-30-07)
- u. Chemical process plants; (3-30-07)
- v. Fossil-fuel boilers of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (3-30-07)
- x. Taconite ore processing facilities; (3-30-07)
- y. Glass fiber processing plants; and (3-30-07)
- z. Charcoal production facilities. (3-30-07)
- 15. Baseline (Area, Concentration, Date).** See Section 579. (5-1-94)
- 16. Best Available Retrofit Technology (BART).** Means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)
- 17. Board.** Idaho Board of Environmental Quality. (5-1-94)
- 18. Breakdown.** An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)
- 19. BTU.** British thermal unit. (5-1-94)
- 20. Clean Air Act.** The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)
- 21. Collection Efficiency.** The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
- 22. Commence Construction or Modification.** In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (4-5-00)
- 23. Complete.** A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)
- 24. Construction.** Fabrication, erection, installation, or modification of a stationary source or facility.

- (5-1-94)
25. **Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)
26. **Controlled Emission.** An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)
27. **Criteria Air Pollutant.** Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)
28. **Deciview.** A measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview Haze Index = $10 \ln_e (b_{\text{ext}} / 10 \text{Mm}^{-1})$ where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}). (3-30-07)
29. **Department.** The Department of Environmental Quality. (5-1-94)
30. **Designated Facility.** Any of the following facilities: (5-1-94)
- a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
- b. Coal cleaning plants (thermal dryers); (5-1-94)
- c. Kraft pulp mills; (5-1-94)
- d. Portland cement plants; (5-1-94)
- e. Primary zinc smelters; (5-1-94)
- f. Iron and steel mill plants; (5-1-94)
- g. Primary aluminum ore reduction plants; (5-1-94)
- h. Primary copper smelters; (5-1-94)
- i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
- j. Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
- k. Petroleum refineries; (5-1-94)
- l. Lime plants; (5-1-94)
- m. Phosphate rock processing plants; (5-1-94)
- n. Coke oven batteries; (5-1-94)
- o. Sulfur recovery plants; (5-1-94)
- p. Carbon black plants (furnace process); (5-1-94)
- q. Primary lead smelters; (5-1-94)

- r. Fuel conversion plants; (5-1-94)
- s. Sintering plants; (5-1-94)
- t. Secondary metal production facilities; (5-1-94)
- u. Chemical process plants; (5-1-94)
- v. Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
- x. Taconite ore processing facilities; (5-1-94)
- y. Glass fiber processing plants; and (5-1-94)
- z. Charcoal production facilities. (5-1-94)
- 31. Director.** The Director of the Department of Environmental Quality or his designee. (5-1-94)
- 32. Effective Dose Equivalent.** The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
- 33. Emission.** Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)
- 34. Emission Standard.** A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (4-5-00)
- 35. Emissions Unit.** An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)
- 36. EPA.** The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)
- 37. Environmental Remediation Source.** A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)
- 38. Excess Emissions.** Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. (4-11-06)
- 39. Existing Stationary Source or Facility.** Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

- 40. Facility.** All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)
- 41. Federal Class I Area.** Any federal land that is classified or reclassified "Class I." (3-30-07)
- 42. Federal Land Manager.** The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). (3-30-07)
- 43. Federally Enforceable.** All limitations and conditions which are enforceable by EPA and the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60, or 63. (3-30-07)
- 44. Fire Hazard.** The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)
- 45. Fuel-Burning Equipment.** Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)
- 46. Fugitive Dust.** Fugitive emissions composed of particulate matter. (5-1-94)
- 47. Fugitive Emissions.** Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)
- 48. Garbage.** Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)
- 49. Gasoline.** Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. Gasoline also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels. (3-29-10)
- 50. Gasoline Cargo Tank.** Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. (3-29-10)
- 51. Gasoline Dispensing Facility (GDF).** Any facility with underground gasoline storage tanks used for dispensing gasoline. (3-29-10)
- 52. Grain Elevator.** Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)
- 53. Grain Storage Elevator.** Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)
- 54. Grain Terminal Elevator.** Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)
- 55. Hazardous Air Pollutant (HAP).** Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. (4-11-06)

56. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

57. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

58. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

59. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

60. Integral Vista. A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. (3-30-07)

61. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

62. Least Impaired Days. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the lowest amount of visibility impairment. (3-30-07)

63. Lowest Achievable Emission Rate (LAER). For any source, the more stringent rate of emissions based on the following: (4-5-00)

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or (4-5-00)

b. The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. (4-5-00)

64. Mandatory Class I Federal Area. Any area identified in 40 CFR 81.400 through 81.437. (3-30-07)

65. Member of the Public. For purposes of Subsection 006.103.a.xvi., a person located at any off-site point where there is a residence, school, business or office. (3-30-07)

66. Mercury. Total mercury including elemental mercury and mercury compounds. ()

67. Mercury Best Available Control Technology (MBACT). An emission standard for mercury based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis taking into account energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT shall be valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review shall not be triggered as long as the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification shall be subject to a new MBACT review. ()

668. Modification. (4-11-06)

a. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted. (4-11-06)

b. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. (4-11-06)

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. (4-11-06)

d. For purposes of this definition of modification, routine maintenance, repair and replacement shall not be considered physical changes and the following shall not be considered a change in the method of operation: (3-30-07)

i. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

ii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

iii. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

679. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

6870. Most Impaired Days. The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the highest amount of visibility impairment. (3-30-07)

6971. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

702. Natural Conditions. Includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration. (3-30-07)

743. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

- b.** The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)
- i.** The restart involves a modification to the facility; or (5-1-94)
- ii.** After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)
- 724. Nonattainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)
- 735. Noncondensibles.** Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)
- 746. Odor.** The sensation resulting from stimulation of the human sense of smell. (5-1-94)
- 757. Opacity.** A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)
- 768. Open Burning.** The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)
- 779. Operating Permit.** A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)
- 780. Particulate Matter.** Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)
- 7981. Particulate Matter Emissions.** All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. (4-5-00)
- 802. Permit to Construct.** A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)
- 843. Person.** Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)
- 824. PM-10.** All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)
- 835. PM-10 Emissions.** All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-5-00)
- 846. Potential to Emit/Potential Emissions.** The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity

of the facility or source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a facility or stationary source. (3-30-07)

857. Portable Equipment. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

868. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

879. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)

- a. Fire hazard reduction; (5-1-94)
- b. The control of pests, insects, or diseases; (5-1-94)
- c. The promotion of range forage improvements; (5-1-94)
- d. The perpetuation of natural ecosystems; (5-1-94)
- e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
- f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
- g. Other accepted natural resource management purposes. (5-1-94)

889. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)

891. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

902. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

913. Process Weight Rate. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)

924. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading

- programs requirement(s) or emission limit(s). (4-5-00)
- 935. Radionuclide.** A type of atom which spontaneously undergoes radioactive decay. (5-1-94)
- 946. Regional Haze.** Visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources. (3-30-07)
- 957. Regulated Air Pollutant.** (4-11-06)
- a.** For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., “regulated air pollutant” shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; (4-11-06)
- b.** For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of “regulated air pollutant” as defined in Subsection 006.94.a. shall also apply; (3-30-07)
- c.** For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., “regulated air pollutant” shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and (4-11-06)
- d.** For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, “regulated air pollutant” shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq. (4-11-06)
- 968. Replicable.** Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)
- 979. Responsible Official.** One (1) of the following: (5-1-94)
- a.** For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)
- i.** The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or (4-5-00)
- ii.** The delegation of authority to such representative is approved in advance by the Department. (5-1-94)
- b.** For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)
- c.** For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)

- d.** For Phase II sources: (5-1-94)
- i.** The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)
- ii.** The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)
- 99100. Safety Measure.** Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)
- 99101. Salvage Operation.** Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)
- 1002. Scheduled Maintenance.** Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)
- 1043. Secondary Ambient Air Quality Standard.** That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)
- 1024. Secondary Emissions.** Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (3-30-07)
- 1035. Shutdown.** The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)
- 1046. Significant.** In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: (4-11-06)
- a.** Pollutant and emissions rate: (4-11-06)
- i.** Carbon monoxide, one hundred (100) tons per year; (5-1-94)
- ii.** Nitrogen oxides, forty (40) tons per year; (5-1-94)
- iii.** Sulfur dioxide, forty (40) tons per year; (5-1-94)
- iv.** Particulate matter, twenty-five (25) tons per year of particulate matter emissions; fifteen (15) tons per year of PM₁₀ emissions; (4-11-06)
- v.** Ozone, forty (40) tons per year of volatile organic compounds; (4-11-06)
- vi.** Lead, six-tenths (0.6) of a ton per year; (5-1-94)
- vii.** Fluorides, three (3) tons per year; (5-1-94)

- viii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
 - ix. Hydrogen sulfide (H₂S), ten (10) tons per year; (5-1-94)
 - x. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)
 - xi. Reduced sulfur compounds (including H₂S), ten (10) tons per year; (5-1-94)
 - xii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)
 - xiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)
 - xiv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)
 - xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; or (4-11-06)
 - xvi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)
- b.** In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.103.a. above and not a toxic air pollutant, any emission rate; or (3-30-07)
- c.** For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)
- 1057. Significant Contribution.** Any increase in ambient concentrations which would exceed the following: (5-1-94)
- a.** Sulfur dioxide: (5-1-94)
 - i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
 - ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)
 - iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)
 - b.** Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)
 - c.** Carbon monoxide: (5-1-94)
 - i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)
 - ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)
 - d.** PM-10: (5-1-94)
 - i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

- ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)
- 1068. Small Fire.** A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)
- 1079. Smoke.** Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)
- 10810. Smoke Management Plan.** A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)
- 10911. Smoke Management Program.** A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)
- 1102. Source.** A stationary source. (5-1-94)
- 1143. Source Operation.** The last operation preceding the emission of air pollutants, when this operation:
a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)
b. Is not an air cleaning device. (5-1-94)
- 1124. Special Fuels.** All fuel suitable as fuel for diesel engines; a compressed or liquefied gas obtained as a by-product in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles. (3-29-10)
- 1135. Stack.** Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)
- 1146. Stage 1 Vapor Collection.** Used during the refueling of underground gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the gasoline cargo tank and returned to the terminal for processing. Two (2) types of Stage 1 systems exist: coaxial and dual point. (3-29-10)
a. Coaxial System. A Stage 1 vapor collection system that requires only one (1) tank opening. The tank opening is usually four (4) inches in diameter with a three (3) inch diameter product fill tube inserted into the opening. Fuel flows through the inner tube while vapors are displaced through the annular space between the inner and outer tubes. (3-29-10)
b. Dual Point System. A Stage 1 vapor collection system that consists of two (2) separate tank openings, one (1) for delivery of the product and the other for the recovery of vapors. (3-29-10)
- 1157. Standard Conditions.** Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)
- 1168. Startup.** The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)
- 1179. Stationary Source.** Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required

- unless required by federal law. (4-11-06)
- 11920. Tier I Source.** Any of the following: (5-1-94)
- a.** Any source located at any major facility as defined in Section 008; (4-5-00)
 - b.** Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; (4-11-06)
 - c.** Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (4-11-06)
 - d.** Any Phase II source; and (5-1-94)
 - e.** Any source in a source category designated by the Department. (5-1-94)
- 11921. Total Suspended Particulates.** Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)
- 1202. Toxic Air Pollutant.** An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)
- 1213. Toxic Air Pollutant Carcinogenic Increments.** Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m³) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)
- 1224. Toxic Air Pollutant Non-carcinogenic Increments.** Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)
- 1235. Toxic Substance.** Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)
- 1246. Trade Waste.** Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)
- 1257. TRS (Total Reduced Sulfur).** Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)
- 1268. Unclassifiable Area.** An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)
- 1279. Uncontrolled Emission.** An emission which has not been treated by control equipment. (5-1-94)
- 12830. Upset.** An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)
- 12931. Visibility Impairment.** Any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions. (3-30-07)
- 1302. Visibility in Any Mandatory Class I Federal Area.** Includes any integral vista associated with that area. (3-30-07)

~~1343.~~ **Wigwam Burner.** Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

~~1344.~~ **Wood Stove Curtailment Advisory.** An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

215. MERCURY EMISSION STANDARD FOR NEW OR MODIFIED SOURCES.

No owner or operator may commence construction or modification of a stationary source or facility that results in an increase in annual potential emissions of mercury of twenty-five (25) pounds or more unless the owner or operator has obtained a permit to construct under Sections 200 through 228 of these rules. The permit to construct application shall include an MBACT analysis for the new or modified source or sources for review and approval by the Department. A determination of applicability under Section 215 shall be based upon the best available information. Fugitive emissions shall not be included in a determination of applicability under Section 215. ()

01. Exemptions. New or modified stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Section 215. ()

02. Applicability. Except as provided in Subsection 215.01, Section 215 applies to all new or modified sources for which an application for a permit to construct was submitted to the Department on or after July 1, 2011. ()

~~2156. -- 219.~~ (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

221. CATEGORY I EXEMPTION.

No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following: (4-5-00)

01. Below Regulatory Concern. The maximum capacity of a source to emit an air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed shall be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. (4-5-00)

02. Radionuclides. The source shall have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

03. Toxic Air Pollutants. The source shall comply with Section 223. (4-5-00)

04. Mercury. The source shall have potential emissions that are less than twenty-five (25) pounds per year of mercury. Fugitive emissions shall not be included in the calculation of potential mercury emissions. ()

(BREAK IN CONTINUITY OF SECTIONS)

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (7-1-02)

- a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)
- b. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; (4-6-05)
- c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (4-5-00)
- d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. (4-5-00)
- e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

02. Required Tier II Operating Permits. ()

a. A Tier II operating permit is required for any stationary source or facility which: ()

i. Is not subject to Sections 300 through 399 with a permit to construct which establishes any emission standard different from those in these rules. (~~7-1-02~~)()

ii. Has annual actual mercury emissions in excess of sixty-two (62) pounds. Fugitive emissions shall not be included in a determination of the actual mercury emissions. The owner or operator of the stationary source or facility shall submit a Tier II permit application for review and approval by the Department, no later than twelve (12) months after becoming subject to Subsection 401.02.a.ii., that includes an MBACT analysis for all sources that emit mercury. A determination of applicability under Subsection 401.02 shall be based upon best available information. An MBACT analysis for review and approval by the Department shall be included in a Tier II renewal application for any mercury emitting source not otherwise subject to MBACT. ()

b. Stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Subsection 401.02.a.ii. ()

03. Tier II Operating Permits Required by the Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

- a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (4-5-00)
- b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (4-5-00)

05. Tier II Operating Permits Establishing a Facility Emissions Cap. The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. (6-30-95)

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	--	0.002	0.0003
64-19-7	Acetic acid	25	1.67	1.25
108-24-7	Acetic anhydride	20	1.33	1
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein	0.25	0.017	0.0125
79-10-7	Acrylic acid	30	2	1.5
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22	1.47	1.1
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum Including:			
NA	Metal & Oxide	10	0.667	0.5
NA	Pyro powders	5	0.333	0.25
NA	Soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10
141-43-5	2-Aminoethanol, See Ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fume	10	0.667	0.5
3825-26-1	Ammonium perfluoro-octanoate	0.1	0.007	0.05
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530	35.3	26.5
626-38-0	Sec-Amyl acetate	665	44.3	33.25
7440-36-0	Antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	Arsine	0.2	0.013	0.01
86-50-0	Azinphos-methyl	0.2	0.013	0.01
7440-39-3	Barium, soluble compounds, as Ba	0.5	0.033	0.025

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
17804-35-2	Benomyl	10	0.67	0.5
7106-51-4	p-Benzoquinone, See Quinone			
94-36-0	Benzoyl peroxide	5	0.333	0.25
92-52-4	Biphenyl	1.5	0.1	0.075
1304-82-1	Bismuth telluride undoped	10	0.667	0.05
NA	Bismuth telluride if selenium doped	5	0.333	0.25
1303-96-4	Borates, tetra odium salts - Including:			
NA	Anhydrous	1	0.067	0.05
NA	Decahydrate	5	0.333	0.25
NA	Pentahydrate	1	0.067	0.05
1303-86-2	Boron oxide	10	0.667	0.5
10294-33-4	Boron tribromide	10	0.667	0.5
7637-07-2	Boron trifluoride	3	0.2	0.25
314-40-9	Bromacil	10	0.667	0.5
7726-95-6	Bromine	0.7	0.047	0.035
7789-30-2	Bromine penta-fluoride	0.7	0.047	0.035
75-25-2	Bromoform	5	0.333	0.25
109-79-5	Butanethiol, see Butyl mercaptan			
78-93-3	2-Butanone, see Methyl ethyl ketone			
112-87-2	2-butoxyethyl acetate	---	8.33	1.25
111-76-2	2-Butoxyethanol (EGBG)	120	8	6
123-86-4	n-Butyl acetate	710	47.3	35.5
105-46-4	sec-Butyl acetate	950	63.3	47.5
540-88-5	tert-Butyl acetate	950	63.3	47.5
141-32-2	Butyl acrylate	55	3.67	2.75
71-36-3	n-Butyl alcohol	150	10	7.5
78-92-2	Sec-Butyl alcohol	305	20.3	15.25
75-65-0	tert-Butyl alcohol	300	20	15
109-73-9	Butylamine	15	1	.75
124-17-4	Butyl carbitol acetate (ID)	---	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO3	0.1	0.007	.005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
13765-19-0	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25
1305-78-8	Calcium oxide	2	0.133	0.1
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - Including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captafol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	3	0.2	0.15
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde	0.32	0.021	0.015
78-95-5	Chloroacetone	0.38	0.0253	0.019
532-27-4	a-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-90-7	Chlorobenzene	350	23.3	17.5
510-15-6	Chlorobenzilate (PL1)	---	0.047	0.035
2698-41-1	O-Chlorobenzylidene malononitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Ethylene chlorohydrin			
600-25-9	1-Chloro-1-nitro propane	10	0.667	0.5
95-57-8	2-Chlorophenol (and all isomers) (ID)	---	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037
126-99-8	B-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin			
2921-88-2	Chlorpyrifos	0.2	0.013	0.01
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
7440-47-3	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1
123-73-9	Crotonaldehyde	5.7	0.38	0.285
299-86-5	Cruformate	5	0.333	0.25
98-82-8	Cumene	245	16.3	12.25
420-04-2	Cyanamide	2	0.133	0.1
592-01-8	Cyanide and compounds as CN	5	0.333	0.25
110-82-7	Cyclohexane	1050	70	52.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-93-0	Cyclohexanol	200	13.3	10
108-94-1	Cyclohexanone	100	6.67	5
110-83-8	Cyclohexene	1015	67.7	50.75
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075
542-92-7	Cyclopentadiene	200	13.3	10
287-92-3	Cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	Decaborane	0.3	0.02	0.015
8065-48-3	Demeton	0.1	0.007	0.005
123-42-2	Diacetone alcohol	240	16	12
39393-37-8	Dialkyl phthalate (ID)	---	16.4	2.46
107-15-3	1,2-Diaminoethane, See Ethylenediamine			
333-41-5	Diazinon	0.1	0.007	0.005
334-88-3	Diazomethane	0.34	0.023	0.017
19287-45-7	Diborane	0.1	0.007	0.005
102-81-8	2-N-Dibutylamino ethanol	14	0.933	0.7
2528-36-1	Dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	Dibutyl phosphate	8.6	0.573	0.43
84-74-2	Dibutyl phthalate	5	0.333	0.25
7572-29-4	Dichloroacetylene	0.39	0.0026	0.0195
95-50-1	o-Dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3-Dichloro-5, 5-dimethyl hydantoin	0.2	0.013	0.025
75-34-3	Dichloroethane	405	27	20.25
540-59-0	1,2-Dichloroethylene	790	52.7	39.5
111-44-4	Dichloroethyl ether	30	2	1.5
75-43-4	Dichlorofluoromethane	40	2.67	2
594-72-9	1, 1-Dichloro-1-nitroethane	10	0.667	0.5
78-87-5	1,2-Dichloropropane, see Propylene dichloride			
75-99-0	2,2-Dichloropropionic acid	6	0.4	0.3
62-73-7	Dichlorvos	1	0.067	0.05
141-66-2	Dicrotophos	0.25	0.017	0.125
77-73-6	Dicyclopentadiene	30	2	1.5

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
102-54-5	Dicyclopentadienyl iron	10	0.667	0.5
111-42-2	Diethanolamine	15	1	0.75
109-89-7	Diethylamine	30	2	1.5
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2
60-29-7	Diethyl ether, see Ethyl ether			
96-22-0	Diethyl Ketone	705	47	35.25
84-66-2	Diethyl phthalate	5	0.333	0.25
2238-07-5	Diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	Dihydroxybenzene, see Hydroquinone			
108-83-8	Diisobutyl ketone	145	9.67	7.25
108-18-9	Diisopropylamine	20	1.33	1
127-19-5	Dimethyl acetamide	35	2.33	1.75
124-40-3	Dimethylamine	9.2	0.613	0.46
60-11-7	Dimethyl aminoazo-benzene (NY)	---	0.002	0.0003
1300-73-8	Dimethylamino-benzene, see Xylidine			
121-69-7	Dimethylaniline (N,N-Dimethylaniline)	25	1.67	1.25
1330-20-7	Dimethylbenzene, see Xylene			
300-76-5	Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled			
68-12-2	Dimethylformamide	30	2	1.5
108-83-8	2,6-Dimethyl-4-heptanone, see Diisobutyl ketone			
131-11-3	Dimethylphthalate	5	0.333	0.25
148-01-6	Dinitolmide	5	0.333	0.25
528-29-0	Dinitrobenzene	1	0.067	0.05
99-65-0	m (or) 1,3-Dinitrobenzene	1	0.067	0.05
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.2	0.013	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
	Diphenyl methane diisocyanate, see Methylenediphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1
298-04-4	Disulfoton	0.1	0.007	0.005
128-37-0	2,6-Ditert. butyl-p-cresol	10	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005
13838-16-9	Enflurane	566	37.7	28.3
1395-21-7	Enzymes, see Subtilisins			
2104-64-5	EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine)	0.5	0.033	0.025
106-88-7	1,2-Epoxybutane (MI)	---	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Ethanethiol, see Ethyl mercaptan			
141-43-5	Ethanolamine	8	0.533	0.4
563-12-2	Ethion	0.4	0.027	0.02
110-80-5	2-Ethoxyethanol	19	1.27	0.95
111-15-9	2-Ethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Ethyl acetate	1400	93.3	70
64-17-5	Ethyl alcohol	1880	125	94
75-04-7	Ethylamine	18	1.2	0.9
541-85-5	Ethyl amyl ketone	130	8.67	6.5
100-41-4	Ethyl benzene	435	29	21.75
74-96-4	Ethyl bromide	22	1.47	1.1
106-35-4	Ethyl butyl ketone	230	15.3	11.5
51-79-6	Ethyl carbamate (Urethane) (WA)	---	0.002	0.0015
75-00-3	Ethyl chloride	2640	176	132
107-07-3	Ethylene chlorohydrin	3	0.2	0.15

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
107-15-3	Ethylenediamine	25	1.67	1.25
107-06-2	Ethylene dichloride	40	2.667	2
107-21-1	Ethylene glycol vapor (CL)	127	0.846	6.35
628-96-6	Ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			
96-45-7	Ethylene thiourea (PL2)	---	0.047	0.035
109-94-4	Ethyl formate	300	20	15
16219-75-3	Ethylidene norbornene (CL)	25	0.167	1.25
75-08-1	Ethyl mercaptan	1	0.067	0.05
100-74-3	N-Ethylmorpholine	23	1.53	1.15
78-10-4	Ethyl silicate	85	5.67	4.25
22224-92-6	Fenamiphos	0.1	0.007	0.005
115-90-2	Fensulfothion	0.1	0.007	0.005
55-38-9	Fenthion	0.2	0.013	0.01
14484-64-1	Ferbam	10	0.667	0.5
12604-58-9	Ferrovandium dust	1	0.067	0.05
NA	Fibrous glass dust	10	0.667	0.5
NA	Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	--	0.661	0.5
NA	Fluorides, as F	2.5	0.167	0.125
7782-41-4	Fluorine	2	0.133	0.1
944-22-9	Fonofos	0.1	0.007	0.005
75-12-7	Formamide	30	2	1.5
64-18-6	Formic acid	9.4	0.627	0.47
98-01-1	Furfural	8	0.533	0.4
98-00-0	Furfuryl alcohol	40	2.67	2
7782-65-2	Germanium tetrahydride	0.6	0.04	0.03
NA	Glass, Fibrous or dust, see Fibrous glass dust			
111-30-8	Glutaraldehyde (CL)	0.82	0.0047	0.041
556-52-5	Glycidol	75	5	3.75
110-80-5	Glycol monoethyl ether, see 2-Ethoxyethanol			
7440-58-6	Hafnium	0.5	0.033	0.025

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
110-43-0	2-Heptanone, see Methyl n-amyl ketone			
106-35-4	3-Heptanone, see Ethyl butyl ketone			
151-67-7	Halothane	404	26.9	20.2
142-82-5	Heptane (n-Heptane)	1640	109	82
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010
684-16-2	Hexafluoroacetone	0.7	0.047	0.035
822-06-0	Hexamethylene diisocyanate	0.03	0.002	0.0015
680-31-9	Hexamethylphosphoramide (WA)	---	0.002	0.0015
110-54-3	Hexane (n-Hexane)	180	12	9
591-78-6	2-Hexanone, see Methyl n-butyl ketone			
108-10-1	Hexone, see Methyl isobutyl ketone			
108-84-9	sec-Hexyl acetate	300	20	15
107-41-5	Hexylene glycol (CL)	121	0.806	6.05
37275-59-5	Hydrogenated terphenyls	5	0.333	0.25
10035-10-6	Hydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	Hydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	Hydrogen peroxide	1.5	0.1	0.075
7783-06-4	Hydrogen sulfide	14	0.933	0.7
123-31-9	Hydroquinone	2	0.133	0.1
123-42-2	4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol			
996-61-1	2 -Hydroxypropyl acrylate	3	0.2	0.15
95-13-6	Indene	45	3	2.25
7440-74-6	Indium & compounds as In	0.1	0.007	0.005
7553-56-2	Iodine (CL)	0.1	0.0067	0.005
75-47-8	Iodoform	10	0.667	0.5
1309-37-1	Iron oxide fume (Fe2O3) as Fe	5	0.333	0.25
13463-40-6	Iron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	Iron salts, soluble, as Fe	1	0.067	0.05
123-92-2	Isoamyl acetate	525	35	26.25
123-51-3	Isoamyl alcohol	360	24	18
110-19-0	Isobutyl acetate	700	46.7	35
78-83-1	Isobutyl alcohol	150	10	6
26952-21-6	Isooctyl alcohol	270	18	13.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
78-59-1	Isophorone	28	1.867	1.4
4098-71-9	Isophorone diisocyanate	0.09	0.006	0.0045
109-59-1	Isopropoxyethanol	105	7	5.25
108-21-4	Isopropyl Acetate	1040	69.3	52
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6
643-28-7	N-Isopropylaniline	10	0.667	0.5
108-20-3	Isopropyl ether	1040	69.3	52
4016-14-2	Isopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	Kaolin (respirable dust)	2	0.133	0.1
463-51-4	Ketene	0.9	0.06	0.045
7580-67-8	Lithium hydride	0.025	0.002	0.00125
546-93-0	Magnesite	10	0.667	0.5
1309-48-4	Magnesium oxide fume	10	0.667	0.5
121-75-5	Malathion	10	0.667	0.5
108-31-6	Maleic anhydride	1	0.067	0.05
7439-96-5	Manganese as Mn Including:			
7439-96-5	Dust & compounds	5	0.333	0.25
7439-96-5	Fume	1	0.067	0.05
101-68-8	MDI, see Methylene diphenyl isocyanate			
NA	Mercaptans not otherwise listed (ID)	---	0.033	0.025
7439-97-6	Mercury - Including:-			
NA	Mercury (Aryl & inorganic compounds as Hg)	0.1	0.007	0.005
NA	Mercury (Alkyl compounds as Hg)	0.01	0.004	0.0005
NA	Mercury (vapors except Alkyl as Hg)	0.05	0.003	0.0025
141-79-7	Mesityl oxide	60	4	3
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-65-6	1-methoxy-2-proanol acetate (ID)	n/a	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35	2.33	1.75
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	12	0.8	0.6
108-11-2	Methyl emyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1
74-83-9	Methyl bromide	19	1.27	0.95
591-78-6	Methyl n-butyl ketone	20	1.33	1
109-86-4	Methyl cellosolve (2-Methoxyethanol)	15.6	1.04	0.78
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8	0.533	0.4
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene bis (4-cyclohexyl isocyanate)	0.11	0.007	0.0055
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075
107-31-3	Methyl formate	246	16.4	12.3
541-85-5	5-Methyl-3-heptanone, see Ethyl amyl ketone			
110-12-3	Methyl isoamyl ketone	240	16	12
108-11-2	Methyl isobutyl carbinol	104	6.93	5.2
108-10-1	Methyl isobutyl ketone	205	13.7	10.25
624-83-9	Methyl isocyanate	0.05	0.003	0.0025
563-80-4	Methyl isopropyl ketone	705	47	35.25
74-93-1	Methyl mercaptan	0.5	0.033	0.025
80-62-6	Methyl methacrylate	410	27.3	20.5
298-00-0	Methyl parathion	0.2	0.013	0.01
107-87-9	Methyl propyl ketone	700	46.7	35

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
681-84-5	Methyl silicate	6	0.4	0.3
98-83-9	a-Methyl styrene	240	16	10.20
109-87-5	Methylal (dimethoxymethane)	3110	207	155.5
108-87-2	Methylcyclohexane	1610	107	80.5
21087-64-9	Metribuzin	5	0.333	0.25
7786-34-7	Mevinphos	0.1	0.007	0.005
12001-26-2	Mica (Respirable dust)	3	0.2	0.15
NA	Mineral Wool Fiber (no asbestos)	10	0.667	0.5
7439-98-7	Molybdenum as Mo - Including:			
NA	Soluble compounds	5	0.333	0.25
NA	Insoluble compounds	10	0.667	0.5
108-90-7	Monochlorobenzene, see Chlorobenzene			
6923-22-4	Monocrotophos	0.25	0.017	0.0125
110-91-8	Morpholine	70	4.67	0.35
300-76-5	Naled	3	0.2	0.15
91-20-3	Naphthalene	50	3.33	2.5
54-11-5	Nicotine	0.5	0.033	0.025
1929-82-4	Nitrapyrin	10	0.667	0.5
7697-37-2	Nitric acid	5	0.333	0.25
100-01-6	p-Nitroaniline	3	0.2	0.15
98-95-3	Nitrobenzene	5	0.333	0.25
100-00-5	p-Nitrochlorobenzene	3	0.2	0.15
79-24-3	Nitroethane	310	20.7	15.5
7783-54-2	Nitrogen trifluoride	29	1.93	1.45
55-63-0	Nitroglycerin	0.46	0.031	0.023
75-52-5	Nitromethane	50	3.333	2.5
108-03-2	1-Nitropropane	90	6	4.5
99-08-1	m (or) 3-Nitrotoluene	11	0.733	0.55
88-72-2	o (or) 2-Nitrotoluene	11	0.733	0.55
99-99-0	p (or) 4-Nitrotoluene	11	0.733	0.55
76-06-2	Nitrotrichloromethane, see Chloropicrin			
10024-97-2	Nitrous oxide	90	6	4.5
111-84-2	Nonane	1050	70	52.5
2234-13-1	Octachloronaphthalene	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
111-65-9	Octane	1400	93.3	70
NA	Oil mist, mineral	5	0.333	0.25
20816-12-0	Osmium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	Oxalic acid	1	0.067	0.05
7783-41-7	Oxygen difluoride (CL)	0.11	0.0007	0.0005
8002-74-2	Paraffin wax fume	2	0.133	0.1
4685-14-7	Paraquat	0.1	0.007	0.007
NA	Paraquat, all Compounds	0.1	0.007	0.005
56-38-2	Parathion	0.1	0.007	0.005
19624-22-7	Pentaborane	0.01	0.001	0.0005
1321-64-8	Pentachloronaphthalene	0.5	0.033	0.025
82-68-8	Pentachloronitrobenzene	0.5	0.0333	0.025
87-86-5	Pentachlorophenol	0.5	0.033	0.025
109-66-0	Pentane	1770	118	88.5
107-87-9	2-Pentanone, see Methyl propyl ketone			
594-42-3	Perchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	Perchloryl Fluoride	13	0.867	0.65
93763-70-3	Perlite	10	0.667	0.5
532-27-4	Phenacyl chloride, see a-Chloroacetophenone			
108-95-2	Phenol	19	1.27	0.95
92-84-2	Phenothiazine	5	0.333	0.25
108-45-2	m-Phenylenediamine	0.1	0.0067	0.005
106-50-3	p-Phenylenediamine	0.1	0.007	0.005
101-84-8	Phenyl ether, vapor	7	0.467	0.035
122-60-1	Phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	Phenyl mercaptan	2	0.133	0.1
638-21-1	Phenylphosphine (CL)	0.25	0.0017	0.00125
298-02-2	Phorate	0.05	0.003	0.001
7786-34-7	Phosdrin, see Mevinphos			
75-44-5	Phosgene	0.4	0.027	0.02
7803-51-2	Phosphine	0.4	0.027	0.02
7664-38-2	Phosphoric acid	1	0.067	0.05
7723-14-0	Phosphorus	0.1	0.007	0.005
10025-87-3	Phosphorus oxychloride	0.6	0.04	0.030

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
10026-13-8	Phosphorus penta-chloride	1	0.067	0.05
1313-80-3	Phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	Phosphorus pentoxide (ID)	--	0.067	0.05
7719-12-2	Phosphorus trichloride	1.5	0.1	0.075
85-44-9	Phthalic anhydride	6	0.4	0.3
626-17-5	m-Phthalodinitrile	5	0.333	0.25
1918-02-1	Picloram	10	0.667	0.5
88-89-1	Picric acid	0.1	0.006	0.005
83-26-1	Pindone	0.1	0.007	0.005
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25
83-26-1	2-Pivaloyl-1,3-indandione, see Pindone			
7440-06-4	Platinum - Including:			
7440-06-4	Metal	1	0.067	0.05
NA	Soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	Portland cement	10	0.667	0.5
1310-58-3	Potassium hydroxide	2	0.133	0.1
107-19-7	Propargyl alcohol	2.3	0.153	0.115
123-38-6	Propionaldehyde (LA)	0.43	0.0287	0.0215
79-09-4	Propionic acid	30	2	1.5
114-26-1	Propoxur (Baygon)	0.5	0.033	0.025
109-60-4	n-Propyl acetate	840	56	42
71-23-8	Propyl alcohol	500	33.3	25
78-87-5	Propylene dichloride	347	23.133	17.35
6423-43-4	Propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	Propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-Propyl nitrate	105	7	5.25
8003-34-7	Pyrethrum	5	0.333	0.25
110-86-1	Pyridine	15	1	0.75
120-80-9	Pyrocatechol, see Catechol			
106-51-4	Quinone	0.4	0.027	0.02
121-84-4	RDX, see Cyclonite			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Refractory Ceramic Fibers (see entry for specific content of emissions, ex: silica)			
108-46-3	Resorcinol	45	3	2.25
7440-16-6	Rhodium - Including:			
7440-16-6	Metal	1	0.067	0.05
NA	Insoluble compounds, as Rh	1	0.067	0.05
NA	Soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	Ronnel	10	0.667	0.5
83-79-4	Rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent (Naphtha)	1590	106	79.5
14167-96-1	Salcoine as CO	0.1	0.007	0.005
7782-49-2	Selenium	0.2	0.013	0.010
NA	Selenium and compounds as Se	0.2	0.013	0.01
136-78-7	Sesone	10	0.667	0.5
7803-62-5	Silane, see silicon tectrahydride			
NA	Silica - amorphous - Including:			
61790-53-2	Diatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	Precipitated silica	10	0.667	0.5
112926-00-8	Silica gel	10	0.667	0.5
NA	Silica, crystalline - Including:			
14464-46-1	Cristobalite	0.05	0.0033	0.0025
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	Silicon	10	0.667	0.5
409-21-2	Silicon carbide	10	0.667	0.5
7803-62-5	Silicon tetrahydride	7	0.467	0.35
7440-22-4	Silver - Including			
7440-22-4	Metal	0.1	0.007	0.005
7440-22-4	Soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	Sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	Sodium bisulfite	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
136-78-7	Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone			
62-74-8	Sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	Sodium hydroxide	2	0.133	0.1
7681-57-4	Sodium metabisulfite	5	0.333	0.25
NA	Stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	Stibine	0.5	0.033	0.025
8052-41-3	Stoddard solvent	525	35	26.25
57-24-9	Strychnine	0.15	0.01	0.0075
60-41-3	Strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	Styrene monomer (ID)	--	6.67	1
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.OE-07	3.0E-7
3689-24-5	Sulfotep	0.2	0.013	0.01
7664-93-9	Sulfuric acid	1	0.067	0.05
10025-67-9	Sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	Sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	Sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	Sulfuryl fluoride	20	1.33	1
35400-43-2	Sulprofos	1	0.067	0.05
8065-48-3	Systox, see Demeton			
93-76-5	2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T)	10	0.667	0.05
7440-25-7	Tantalum	5	0.333	0.25
3689-24-5	TEDP, see Sulfotep			
13494-80-9	Tellurium & Compounds as Te	0.1	0.007	0.005
7783-80-4	Tellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	Temephos	10	0.667	0.5
107-49-3	TEPP (Tetraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	Terphenyls	4.7	0.313	0.235
1335-88-2	Tetrachloronaphthalene	2	0.133	0.10
78-00-2	Tetraethyl Lead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	Tetrahydrofuran	590	39.3	29.5
75-74-1	Tetramethyl lead, as Pb	0.15	0.01	0.0075
3333-52-6	Tetramethyl succinonitrile	3	0.2	0.15

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
509-14-8	Tetranitromethane	8	0.533	0.4
7722-88-5	Tetrasodium pyrophosphate	5	0.333	0.25
479-45-8	Tetryl	1.5	0.1	0.075
7440-28-0	Thallium, soluble Compounds, as TI	0.1	0.007	0.005
96-69-5	4,4-Thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	Thioglycolic acid	4	0.267	0.2
7719-09-7	Thionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	Thiram	5	0.333	0.25
7440-31-5	Tin - Including:			
7440-31-5	Metal	2	0.133	0.1
NA	Oxide & inorganic compounds, except SnH4, as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005
108-88-3	Toluene (toluol)	375	25	18.75
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002
10-41-54	p-Toluenesulfonic acid (ID)	n/a	0.067	0.05
126-73-8	Tributyl phosphate	2.2	0.147	0.11
76-03-9	Trichloroacetic acid	7	0.467	0.35
120-82-1	1,2,4-Trichlorobenzene (CL)	37	2.47	1.85
79-01-6	Trichloroethylene	269	17.93	13.45
1321-65-9	Trichloronaphthalene	5	0.333	0.25
76-06-2	Trichloronitromethane, See Chloropicrin			
95-95-4	2,4,5-Trichlorophenol (MA)	---	---	0.0016
96-18-4	1,2,3-Trichloropropane	60	4	3
121-44-8	Triethylamine	4.1	0.27	0.2
1582-09-8	Trifluralin (PL3)	---	7.7	1.15
552-30-7	Trimellitic anhydride	0.04	0.003	0.002
75-50-3	Trimethylamine	12	0.8	0.6
25551-13-7	Trimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4-Trimethyl-pentane	350	23.3	17.5
121-45-9	Trimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6-Trinitrophenyl-methylnitramine, see Tetryl			
78-30-8	Triorthocresyl phosphate	0.1	0.007	0.005
603-34-9	Triphenyl amine	5	0.333	0.25
115-86-6	Triphenyl phosphate	3	0.2	0.15

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7440-33-7	Tungsten - Including:			
NA	Insoluble compounds	5	0.333	0.25
NA	Soluble compounds	1	0.067	0.05
8006-64-2	Turpentine	560	37.3	28
7440-61-1	Uranium (natural) Soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n-Valeraldehyde	175	11.7	8.75
1314-62-1	Vanadium, as V2O5 Respirable Dust & fume	0.05	0.003	0.0025
108-05-4	Vinyl acetate (ID)	0.2		
25013-15-4	Vinyl toluene	240	16	12
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005
1330-20-7	Xylene (o-, m-, p-isomers)	435	29	21.75
1477-55-0	m-Xylene a, a-diamine (CL)	0.1	0.0007	0.0005
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

(6-30-95)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1002

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. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

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

Wednesday, September 8, 2010 at 3:30 p.m.

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

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

DESCRIPTIVE SUMMARY: This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho are consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference at Sections 008 and 107 to include those revised as of July 1, 2010. In addition, this proposed rule revises Section 577, Ambient Air Quality Standards, and Section 581, Prevention of Significant Deterioration Increments, by deleting rule text that has become obsolete or unnecessary due to the update of federal regulations incorporated by reference in Section 107.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2010 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon adjournment of the 2011 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. An electronic copy of the federal regulations incorporated by reference can be obtained at <http://www.gpoaccess.gov/ecfr/index.html>.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

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

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

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

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 8, 2010.

DATED this 29th day of June, 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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 58-0101-1002

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

- 01. Affected States.** All States: (5-1-94)
- a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)
- c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a “serious” particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate," one hundred (100) tpy or more, if the area is "serious," fifty (50) tpy or more, if the area is "severe," twenty-five (25) tpy or more, and if the area is "extreme," ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-11-06)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2009~~10~~, are hereby incorporated by reference. (~~3-29-10~~)()

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: U.S. Government Printing Office, <http://www.gpoaccess.gov/ecfr/index.html>; and (~~3-29-04~~)()

b. All documents herein incorporated by reference: (7-1-97)

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans *and Appendix W to Part 51—Guideline on Air Quality Models*, 40 CFR Part 51 revised as of July 1, 2009~~10~~. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (~~3-29-10~~)()

i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)

- ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
- b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~e.~~ *Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, 40 CFR 51.301, 51.304(a), 51.307, and 51.308, revised as of July 1, 2009.* (3-29-10)
- ~~dc.~~ Approval and Promulgation of Implementation Plans, 40 CFR Part 52 revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~ed.~~ Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~fe.~~ Ambient Air Quality Surveillance, *Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring)*, 40 CFR Part 58, *Appendix B*, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~gf.~~ Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~hg.~~ National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~ih.~~ National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~ji.~~ Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~kj.~~ Permits, 40 CFR Part 72, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~lk.~~ Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~ml.~~ Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2009~~10~~. (3-29-10)(____)
- ~~nm.~~ Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- ~~on.~~ Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2009~~10~~, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (3-29-10)(____)
- ~~po.~~ The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,266 the final rule for Standards of Performance for Electric Utility Steam Generating Units, Industrial-Commercial-Institutional Steam Generating Units, and Small Industrial-Commercial-Institutional Steam Generating Units, only as it applies to coal fired electric steam generating units as defined in 40 CFR 60.24, 71 Fed. Reg. 9865 (February 27, 2006); Revision of December 2000 Clean Air Act Section 112(n) Finding Regarding Electric Utility Steam Generating Units; and Standards of Performance for New and Existing Electric Utility Steam Generating Units: Reconsideration, 71 Fed. Reg. 33,388 (June 9, 2006) are expressly excluded from any incorporation by reference into these rules. (3-30-07)
- p. The final rule for Primary National Ambient Air Quality Standards for Sulfur Dioxide, 75 Fed. Reg. 35,520 through 35,603 (June 22, 2010) to be codified at 40 CFR Part 50 (National Primary and Secondary Ambient Air Quality Standards), 40 CFR Part 53 (Ambient Air Monitoring Reference and Equivalent Methods), and

40 CFR Part 58 (Ambient Air Quality Surveillance). This final rule is effective on August 23, 2010. ()

q. The final rule for Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 31,514 through 31,608 (June 3, 2010) to be codified at 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), 40 CFR Part 52 (Approval and Promulgation of Implementation Plans), and 40 CFR Part 70 (State Operating Permit Programs). This final rule is effective on August 2, 2010. ()

(BREAK IN CONTINUITY OF SECTIONS)

577. AMBIENT AIR QUALITY STANDARDS FOR SPECIFIC AIR POLLUTANTS FLUORIDES.

01. Particulate Matter. PM-10 ~~particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers.~~ (5-1-94)

a. Primary and Secondary Standards. Primary and secondary PM-10 standards are: (5-1-94)

i. Annual Standard. Fifty (50) micrograms per cubic meter, as an annual arithmetic mean ~~never expected to be exceeded in any calendar year.~~ (5-1-94)

ii. Twenty four (24) Hour Standard. One hundred fifty (150) micrograms per cubic meter as a maximum twenty four (24) hour concentration ~~never expected to be exceeded more than once in any calendar year.~~ (5-1-94)

b. Attainment and Expected Exceedance Determination. For the purpose of determining attainment of the primary and secondary PM-10 standards, expected exceedances shall be determined in accordance with Appendix K of 40 CFR Part 50. (5-1-94)

02. Sulfur Oxides (Sulfur Dioxide). (5-1-94)

a. Primary Standards. Primary sulfur dioxide air quality standards are: (5-1-94)

i. Annual Standard. Eighty (80) micrograms per cubic meter (0.03 ppm), as an annual arithmetic mean ~~not to be exceeded in any calendar year.~~ (5-1-94)

ii. Twenty four (24) Hour Standard. Three hundred sixty five (365) micrograms per cubic meter (0.14 ppm), as an maximum twenty four (24) hour concentration ~~not to be exceeded more than once in any calendar year.~~ (5-1-94)

b. Secondary Standards. Secondary air quality standards are one thousand three hundred (1,300) micrograms per cubic meter (0.50 ppm), as a maximum three (3) hour concentration ~~not to be exceeded more than once in any calendar year.~~ (5-1-94)

03. Ozone. Primary and secondary air quality standards are 0.12 ppm (two hundred thirty five (235) micrograms per cubic meter) ~~maximum one (1) hour concentration not expected to be exceeded more than once per year.~~ (5-1-94)

04. Nitrogen Dioxide. Primary and secondary air quality standards are one hundred (100) micrograms per cubic meter (0.05 ppm) ~~annual arithmetic mean.~~ (5-1-94)

05. Carbon Monoxide. Primary and secondary air quality standards are: (5-1-94)

a. Eight (8) Hour Standard. Ten (10) milligrams per cubic meter (9 ppm) ~~maximum eight (8) hour concentration not to be exceeded more than once per year.~~ (5-1-94)

b. One (1) Hour Standard. Forty (40) milligrams per cubic meter (35 ppm) ~~maximum one (1) hour~~

~~concentration not to be exceeded more than once per year. (5-1-94)~~

~~06. Fluorides. Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: (5-1-94)~~

~~a01. Annual Standard. Forty (40) ppm, dry basis -- annual arithmetic mean. (5-1-94)~~

~~b02. Bimonthly Standard. Sixty (60) ppm, dry basis -- monthly concentration for two (2) consecutive months. (5-1-94)~~

~~e03. Monthly Standard. Eighty (80) ppm, dry basis -- monthly concentration never to be exceeded. (5-1-94)~~

~~07. Lead. Primary and secondary standards for lead and its compounds, measured as elemental lead, are one and one-half (1.5) micrograms per cubic meter (1.5 ug/m3), as a quarterly arithmetic mean -- not to be exceeded in any quarter of any calendar year. (5-1-94)~~

(BREAK IN CONTINUITY OF SECTIONS)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. Incorporated Federal Program Requirements - Class I, II and III Areas. ~~In any area designated as Class I, II, or III, increases in any ambient concentration over the baseline concentration shall be limited to the following:~~ Class I, II, and III area PSD increment requirements contained in 40 CFR 52.21(c) are incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

CLASS AREAS	Maximum Allowable Increase (Micrograms per cubic meter)
CLASS I AREAS	
<i>PM-10:</i>	
Annual arithmetic mean	4
Maximum twenty-four (24) hour average	8
<i>Sulfur dioxide:</i>	
Annual arithmetic mean	2
Maximum twenty-four (24) hour average	5
Maximum three (3) hour average	25
<i>Nitrogen dioxide:</i>	
Annual arithmetic mean	2.5
CLASS II AREAS	
<i>PM-10:</i>	
Annual arithmetic mean	17
Maximum twenty-four (24) hour average	30

CLASS AREAS	Maximum Allowable Increase (Micrograms per cubic meter)
Sulfur dioxide:-	
Annual arithmetic mean	20
Maximum twenty-four (24) hour average	91
Maximum three (3) hour average	512
Nitrogen dioxide:-	
Annual arithmetic mean	25
CLASS III AREAS	
PM-10:-	
Annual arithmetic mean	34
Maximum twenty-four (24) hour average	60
Sulfur dioxide:-	
Annual arithmetic mean	40
Maximum twenty-four (24) hour average	182
Maximum three (3) hour average	700
Nitrogen dioxide:-	
Annual arithmetic mean	50

(5-3-03)()

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

i. Would not affect the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (4-11-06)

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

751. GENERAL RULES.

Any owner or operator of a facility subject to Sections 750 and 751 shall demonstrate compliance with Section 751 by January 1, 1982, in accordance with a compliance schedule, listing increments of progress, which shall be submitted to the Department on or before August 1, 1980. (5-1-94)

01. Emission Limitations -- Phosphate Fertilizer Plants. No person shall allow, suffer, cause or permit the discharge into the atmosphere of total fluoride emissions in gaseous and in particulate form, expressed as fluoride (F-), from the phosphate fertilizer plant sources listed in Subsection 751.03 in excess of thirty hundredths (0.30) pounds of fluoride per ton of P2O5 input to the calciner operation, calculated at maximum rated capacity. (5-1-94)

02. Monitoring, Testing, and Reporting Requirements. Compliance with Subsection 751.01 will be adjudged upon the results of the continuing program of fluoride sampling of potential grazing areas and alfalfa growing areas conducted by the Department. Sampling conducted by any person subject to Section 751 may be accepted for determining compliance with Subsection 751.01 if such sampling is conducted at sites approved by the Department in advance of sampling, using analytical procedures appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods) or equivalent methods approved by the Department in advance of sampling. Compliance with Subsection 751.01 shall be demonstrated by testing methods approved in advance by the Department. When approved by the Director in advance of sampling, engineering calculations may be submitted in lieu of emission data. Monitoring and reporting requirements shall be included in operating permits granted to each facility. (5-1-94)

03. Source Specific Permits. To assure compliance with Subsection 751.01, the Director shall specify methods for calculating total allowable emissions and shall issue source specific permits containing emission limitations for the following sources within phosphate fertilizer plants: (5-1-94)

- a. Calciner operation; and (5-1-94)
- b. Wet phosphoric acid plants; and (5-1-94)
- c. Super phosphoric acid production; and (5-1-94)
- d. Diammonium phosphate plants; and (5-1-94)
- e. Monoammonium phosphate production; and (5-1-94)
- f. Triple super phosphate (mono calcium phosphate) production. (5-1-94)

04. Exemptions. The provisions of Subsections 751.01, 751.02, and 751.03 shall not apply to any phosphate fertilizer facility which produces mono ammonium phosphate exclusively if no animal feed is grown or if no animal grazing occurs or if the animal feed and forage meets the ambient air quality standards for fluorides specified in ~~Subsection 577-06~~ within a three (3) mile radius of such facility. This exemption shall only apply if the owner or operator of the facility, on an annual basis: (7-1-97)(____)

- a. Conducts a fluoride sampling program of potential grazing areas at locations approved in advance of sampling by the Department, using analytical techniques appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods); and (5-1-94)
- b. Submits the results of such sampling program to the Department as soon as they become available. (5-1-94)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-1001

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 19, 2010. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates the federal regulations incorporated by reference to include those revised as of July 1, 2010. In addition, this proposed rule revises Section 005, Identification and Listing of Hazardous Waste, and deletes Section 014, Interim Status Surface Impoundments. The Section 005 revisions are necessary due to corrections made to the federal regulations under the Hazardous Waste Technical Corrections and Clarification Rule. Section 014 has been deleted because the permitting requirements have been included in Sections 008 and 009 and the state of Idaho does not have interim status surface impoundments that receive hazardous waste.

Groups interested in hazardous waste and handlers of hazardous waste including generators, transporters, and treatment, storage, and disposal facilities may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2010 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2011 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows the Department of Environmental Quality (DEQ) to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. An electronic copy of the federal regulations incorporated by reference can be obtained at <http://www.gpoaccess.gov/ecfr/index.html>.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

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

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck, john.brueck@deq.idaho.gov, (208)373-0458.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 1, 2010.

Dated this 29th day of June, 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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 58-0105-1001

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2009~~10~~, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(3-29-10)~~(____)

01. Exceptions. Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (5-8-09)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

- a. U.S. Government Printing Office, <http://www.gpoaccess.gov/ecfr/index.html>; and ~~(3-20-04)~~(____)
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. ~~(3-29-10)~~(____)

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts, except the language “in the Region where the sample is collected” in 40 CFR 261.4(e)(3)(iii), ~~except remanded waste codes “K064, K065, K066, K090 and K091” listed in 40 CFR Part 261 Appendix VII, and except 40 CFR 261.23(a)(8)~~, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR 261.10 and 40 CFR 261.11, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.41(a), Regional Administrator shall be defined as U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification required under this section should also be sent to the Director. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), and 40 CFR 261 Appendix IX, “EPA” shall be defined as the U.S. Environmental Protection Agency. ~~(3-29-10)(_____)~~

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by EnviroSAFE Services of Idaho, Inc. (ESII) at ESII’s facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., “new source” shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., “batch” shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting Levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06	mercury	0.009
arsenic	0.50	nickel	1
barium	7.60	selenium	0.16
beryllium	0.010	silver	0.30
cadmium	0.050	thallium	0.020
chromium	0.33	vanadium	2
lead	0.15	zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted

to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR 262.55, 262.56, and 262.57(b), "Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.21, 262.51, 262.53, 262.54(e), 262.54(g)(1), 262.60, and 262.85(g), EPA shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. (3-29-10)(_____)

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR

265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), “United States” shall be defined as the United States. (~~3-29-10~~)(____)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR Subsection 264.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71(a)(3) and 264.1082(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. (~~3-29-10~~)(____)

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) and except the language contained in 40 CFR 265.340(b)(2) as replaced with, “The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part,” are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR Subsection 265.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71(a)(3) and 265.1083(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. (~~3-29-10~~)(____)

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. (~~3-29-10~~)(____)

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) “EPA” shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), “Administrator” shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), “D009” is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) In 40 CFR 268.48(a), the entry for “2,4,6-Tribromophenol” is excluded. (~~3-29-10~~)(____)

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. (~~3-29-10~~)(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~, except that 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) “EPA” and “Administrator” or “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (3-29-10)(____)

014. INTERIM STATUS SURFACE IMPOUNDMENTS (RESERVED).

~~In accordance with Section 3005(j) of RCRA which is herein incorporated by reference, surface impoundments in existence on November 8, 1984, and qualifying for interim status shall not receive, store or treat hazardous waste after November 8, 1988, unless retrofitted to meet standards applicable to new impoundments or subject to an exemption. Copies of the federal statute herein incorporated by reference are available in the locations provided in Subsection 002.02. Standards applicable to new surface impoundments which are referenced in Section 3005(j) of RCRA as requirements of Section 3004(o) (42 U.S.C. 6924(o)) appear in federal regulations as 40 CFR Parts 264.220-232 and 265.220-231 and are incorporated as provided in Sections 008 and 009. (3-15-02)~~

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR 279.43(c)(3)(ii) “Director” shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. (3-29-10)(____)

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. For purposes of 40 CFR 273.32(a)(3), “EPA” shall be defined as the U.S. Environmental Protection Agency. (3-29-10)(____)

017. CRITERIA FOR THE MANAGEMENT OF GRANULAR MINE TAILINGS (CHAT) IN ASPHALT CONCRETE AND PORTLAND CEMENT CONCRETE IN TRANSPORTATION CONSTRUCTION PROJECTS FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS.

40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. (3-29-10)(____)

018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.

40 CFR Part 267 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2009~~10~~. (3-29-10)(____)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-1001

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 19, 2010. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to make revisions to the Idaho Rules for Public Drinking Water Systems for clarification purposes and for consistency within these and other DEQ rules. The proposed rule clarifies definitions and facility design standards, reorganizes certain sections such as the filtration and disinfection process, and updates citations to documents incorporated by reference. In addition, the review of plans and specifications section has been revised for consistency with 2010 House Bill 451 (codified at Section 39-103(12), Idaho Code) and the current rule definition of "public drinking water system." This rulemaking also includes corrections that are typographical and nonsubstantive in nature.

Drinking water system owners and operators, developers, consultants, engineers, cities, counties, industry, drinking water professional organizations, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2010 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon adjournment of the 2011 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

This proposed rule incorporates federal regulations by reference. Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. An electronic copy of the federal regulations incorporated by reference can be obtained at <http://www.gpoaccess.gov/ecfr/index.html>. This proposed rule also updates the citation to the American Water Works Association (AWWA) Standards, which have been incorporated by reference into these rules since 2006. Information for obtaining the AWWA Standards is included in the proposed rule.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

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

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Mike Piechowski at (208) 373-0274, mike.piechowski@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 1, 2010.

DATED this 29th day of June, 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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 58-0108-1001

002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

01. Incorporation by Reference. The following documents are incorporated by reference into these rules. (4-11-06)

a. 40 CFR Parts 141 and 143. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules (4-11-06)

b. American Water Works Association (AWWA) Standards, effective ~~July 2006~~ December 2009, available for a fee from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337, <http://apps.awwa.org/ebusmain/OnlineStore.aspx>. (~~3-30-07~~)()

02. Availability of Specific Referenced Material. Copies of specific documents referenced within these rules are available at the following locations: (4-11-06)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; or <http://www.gpoaccess.gov/ecfr/index.html>. (~~4-11-06~~)()

b. All documents incorporated by reference are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (~~4-11-06~~)()

c. Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, ~~2003~~, Telephone (518) 439-7286. (~~4-6-05~~)()

d. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (5-3-03)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

- f.** Rules of the Idaho Water Resources Board available at www.adm.idaho.gov/adminrules/rules/idapa37/37index.htm, or the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800. (3-30-07)
- g.** ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- h.** ANSI/NSF Standard 53-2002e -- 2003, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- i.** ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- j.** ANSI/NSF Standard 58-2003 -- 2004, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- k.** ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- l.** ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- m.** American Water Works Association (AWWA) Standards, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337, www.awwa.org. (3-30-07)
- n.** Cross Connection Control Manual, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. (3-30-07)
- o.** Manual of Cross-Connection Control, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, KAP-200 University Park MC-2531, Los Angeles, CA 90089-2531, (866)545-6340, www.usc.edu/dept/fccchr/. (3-30-07)
- p.** Manual on Slow Sand Filtration (1991), published by AWWA Research Foundation 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, www.awwa.org. (3-30-07)
- q.** Slow Sand Filtration (1991), published by the American Society of Civil Engineers American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, VA 20191, (800)548-2723, www.asce.org. (3-30-07)
- r.** Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. (3-30-07)
- s.** Water System Design Manual, DOH Pub #331-123 (Rev. 8/01), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. (3-30-07)
- t.** Submersible Motors: Application, Installation, Maintenance (Franklin Electric AIM manual), Franklin Electric, Bluffton, Indiana 46714, (800)348-2420, <http://www.franklin-electric.com/Manual/pdf/fullAIM.pdf>. (3-30-07)

u. Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, <http://www.epa.gov/safewater/mbdp/implement.html>. (3-30-07)

v. Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235, 800-926-7337, www.standardmethods.org. (3-30-07)

w. F480-02 Standard Specification for Thermoplastic Well Casing Pipe and Couplings Made in Standard Dimension ratios (SDR), SCH 40 and SCH 80, American Society for Testing and Materials (ASTM Standard F480-02). (3-30-07)

x. "Idaho Standards for Public Works Construction," 2005 Edition, and subsequent revisions, Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565. (4-11-06)

y. Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (3-30-07)

z. Idaho General Safety and Health Standards (IGSHS), available from the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, (208)334-3950, http://dbs.idaho.gov/safety_code/000.html. (3-30-07)

aa. Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (4-2-08)

bb. Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (4-2-08)

cc. Implementation Guidance for the Ground Water Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (5-8-09)

dd. AWWA Recommended Practice for Backflow Prevention and Cross-Connection Control (M14), available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ()

03. Precedence. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. (4-11-06)

003. DEFINITIONS.

The definitions set forth in 40 CFR 141.2, revised as of July 1, 2006, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person." (4-2-08)

01. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

02. Administrator. The Administrator of the United States Environmental Protection Agency. (4-5-00)

03. Annual Samples. Samples that are required once per calendar year. (12-10-92)

04. Annular Opening. As used in well construction, this term refers to the nominal inside diameter of the borehole minus the outside diameter of the casing divided by two (2). (3-30-07)

05. Aquifer. A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. (5-3-03)

06. Available. Based on system size, complexity, and source water quality, a properly licensed operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-6-05)

07. Average Day Demand. The volume of water used by a system on an average day based on a one (1) year period. See also the definition of Water Demand in these rules. (5-8-09)

08. Backflow. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

09. Bag Filters. Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside. (4-2-08)

10. Bank Filtration. A water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s). (4-2-08)

11. Board. The Idaho Board of Environmental Quality. (5-3-03)

12. Capacity. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (4-6-05)

b. Financial capacity means the financial resources of the water system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (5-8-09)

c. Managerial capacity means that the management structure of the water system embodies the aspects of water system operations, including, but not limited to; (5-8-09)

i. Short and long range planning; (4-5-00)

ii. Personnel management; (4-5-00)

iii. Fiduciary responsibility; (4-5-00)

iv. Emergency response; (4-5-00)

v. Customer responsiveness; (4-5-00)

vi. Source water protection; (4-5-00)

vii. Administrative functions such as billing and consumer awareness; and (4-5-00)

viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

13. Cartridge Filters. Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the

inside. (4-2-08)

14. Combined Distribution System. The interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water. (4-2-08)

15. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

16. Components of Finished Water Storage. Storage is available to serve the system if the storage structure or facility is elevated sufficiently or is equipped with sufficient booster pumping capability to pressurize the system. Components of finished water storage are further defined as: (5-8-09)

a. Dead Storage. Storage that is either not available for use in the system or can provide only substandard flows and pressures. (3-30-07)

b. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of this Subsection. (5-8-09)

c. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of; (3-30-07)

i. The volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed; or (3-30-07)

ii. The volume needed to compensate for the sensitivity of the water level sensors. (3-30-07)

d. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. (3-30-07)

e. Fire Suppression Storage. The water needed to support fire flow in those systems that provide it. (3-30-07)

f. Standby Storage. Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. Normally used for emergency operation, if standby power is not provided, to provide water for eight (8) hours of operation at average day demand. (5-8-09)

17. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

18. Compositing of Samples. The mixing of up to five (5) samples by the laboratory. (4-5-00)

19. **Confining Layer.** A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (5-3-03)
20. **Confirmation Sample.** A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)
21. **Connection.** Each structure, facility, or ~~single family residence~~ premises which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. A single family residence is considered to be a premises. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (~~10-1-93~~)()
22. **Consecutive System.** A public water system that receives some or all of its finished water from one (1) or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. (4-2-08)
23. **Consumer.** Any person served by a public water system. (12-10-92)
24. **Consumer Confidence Report (CCR).** An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)
25. **Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)
26. **Cross Connection.** Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)
27. **Dead End Main.** A distribution main of any diameter and length that does not loop back into the distribution system. (3-30-07)
28. **Dead Storage.** Storage that is either not available for use in the system or can provide only substandard flows and pressures. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)
29. **Department.** The Idaho Department of Environmental Quality. (12-10-92)
30. **Director.** The Director of the Department of Environmental Quality or his designee. (12-10-92)
31. **Disinfection.** Introduction of chlorine or other agent or process approved by the Department, in sufficient concentration or dosage, and for the time required to kill or inactivate pathogenic and indicator organisms. (3-30-07)
32. **Disinfection Profile.** A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)
33. **Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (5-8-09)
34. **Drinking Water.** Means "water for human consumption." (3-30-07)

35. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

36. Dual Sample Set. A set of two (2) samples collected at the same time and same location, with one (1) sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an Initial Distribution System Evaluation (40 CFR Part 141, Subpart U) and for determining compliance with the TTHM and HAA5 MCLs under the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). (4-2-08)

37. DWIMS. Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)

38. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of the definition Components of Finished Water Storage in these rules. (5-8-09)

39. Enhanced Coagulation. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

40. Enhanced Softening. The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

41. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

42. Equivalent Dwelling Unit (EDU). A unit of measure that standardizes all land use types (housing, retail, office, etc.) to the level of demand created by a single-family detached housing unit within a water system. The demand for one (1) equivalent dwelling unit is equivalent to the amount of water provided to the average single-family detached housing unit within a water system. For example, a business designed to use three (3) times as much water as an average single-family detached housing unit would have a demand of three (3) equivalent dwelling units. (5-8-09)

43. Exemption. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

44. Facility Plan. The facility plan for a public drinking water system describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. (3-30-07)

45. Facility Standards and Design Standards. Facility standards and design standards are described in Sections 500 through 552 of these rules. Facility and design standards found in Sections 500 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. (3-30-07)

46. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

47. Filter Profile. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

48. Finished Water. Water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals). (4-2-08)

49. Finished Water Storage Structures or Facilities. Finished water storage structures or facilities are defined as: (5-8-09)

a. Above-ground storage structure or facility. A finished water storage structure or facility with a bottom elevation above normal ground surface. (5-8-09)

b. Ground-level storage structure or facility. A finished water storage structure or facility with a bottom elevation at normal ground surface. (5-8-09)

c. Partially buried storage structure or facility. A finished water storage structure or facility with a bottom elevation below normal ground surface and any portion of the structure or facility above normal ground surface. (5-8-09)

d. Below-ground storage structure or facility. A finished water storage structure or facility with a bottom elevation and top elevation below normal ground surface. (5-8-09)

50. Fire Flow Capacity. The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority. (3-30-07)

51. Fire Suppression Storage. The water needed to support fire flow in those systems that provide it. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

52. Fixture Protection. The practice of installing backflow prevention assemblies or devices to isolate one (1) or more cross connections within a customer's facility. (5-8-09)

53. Flowing Stream. As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a course of running water flowing in a definite channel. (4-2-08)

54. GAC10. Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average day demand and a carbon reactivation frequency of every one hundred eighty (180) days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with MCLs established in the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V) shall be one hundred twenty (120) days. (5-8-09)

55. GAC20. Granular activated carbon filter beds with an empty-bed contact time of twenty (20) minutes based on average daily flow and a carbon reactivation frequency of every two hundred forty (240) days. (4-2-08)

56. Ground Water System. A public water system which is supplied exclusively by a ground water source or sources. (12-10-92)

57. Ground Water Under the Direct Influence of Surface Water. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality, documentation of well construction characteristics and geology with field evaluation, or a combination of water quality and documentation.

(5-8-09)

58. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

59. Health Hazards. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

60. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

61. Internal or In-Plant Isolation. The practice of installing backflow prevention assemblies to protect an area within a water customer's structure, facility, or premises from contaminating another part of the structure, facility, or premises. (~~5-8-09~~)()

62. Laboratory Certification Reciprocity. Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

63. Lake/Reservoir. As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow. (4-2-08)

64. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-05)

65. Locational Running Annual Average (LRAA). The average of sample analytical results for samples taken at a particular monitoring location during the previous four (4) calendar quarters, as set forth in the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). (4-2-08)

66. Log. Logarithm to the base ten (10). (12-10-92)

67. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

68. Material Modification. Those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. Any project that adds source water to a system, increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing drinking water system components, or affects the water demand of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (5-8-09)

69. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (3-30-07)

70. Maximum Day Demand. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. See also the definition of Water Demand in these rules. (5-8-09)

71. Maximum Pumping Capacity. The pumping capacity with the largest source or pump out of service. (5-8-09)

72. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

73. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

74. Membrane Filtration. A pressure or vacuum driven separation process in which particulate matter larger than one (1) micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis. (4-2-08)

75. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

76. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

77. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

78. Non-Potable Mains. The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

79. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-11-06)

80. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

81. Nuclear Facility. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

82. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

83. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of the volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed or the volume needed to compensate for the

sensitivity of the water level sensors. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

84. Owner/Purveyor of Water/Supplier of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers, and who is ultimately responsible for the public water system operation. (5-8-09)

85. Peak Hour Demand. The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. See also the definition of Water Demand in these rules. (5-8-09)

86. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

87. Pesticides. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

88. Plant. A physical facility where drinking water or wastewater is treated or processed. (3-30-07)

89. Plant Intake. The works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant. (4-2-08)

90. Point of Use (POU) Treatment Device. A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap. (3-30-07)

91. Point of Use (POU) Treatment System. A collection of POU treatment devices. (3-30-07)

92. Potable Mains. Pipelines that deliver potable water to multiple service connections. (3-30-07)

93. Potable Services. Pipelines that convey potable water from a connection to the potable water main to individual consumers. (3-30-07)

94. Preliminary Engineering Report. The preliminary engineering report for a public drinking water system facility is a report that addresses specific portions of the system or facility for which modifications are being designed. Modifications may include, but are not limited to, significant changes to existing processes or facilities, system expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. However, the preliminary engineering report shall describe modifications to the facility plan that may be required as a result of the proposed project. (3-30-07)

95. Premises Isolation or Containment. The practice of separating the customer's structure, facility, or premises from the purveyor's system by means of a backflow prevention assembly installed on the service line before any distribution takes place. (~~5-8-09~~)(____)

96. Presedimentation. A preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant. (4-2-08)

97. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

98. Public Drinking Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen

(15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system" as further defined as: (5-8-09)

a. Community water system. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (5-8-09)

b. Noncommunity water system. A public water system that is not a community water system. A noncommunity water system is either a transient noncommunity water system or a non-transient noncommunity water system. (5-8-09)

c. Nontransient noncommunity water system. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (5-8-09)

d. Transient noncommunity public water system. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (5-8-09)

99. Public Water System/Water System/System. Means "public drinking water system." (4-5-00)

100. Pump House. An above-grade structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (3-30-07)

101. Qualified Licensed Professional Engineer (QLPE). A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (5-8-09)

102. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. (4-11-06)

103. Regulated Public Utility. For the purpose of these rules, any public water system that falls under the jurisdiction of the Idaho Public Utilities Commission and is subject to the rules thereof. (3-30-07)

104. Repeat Compliance Period. Any subsequent compliance period after the initial compliance period. (12-10-92)

105. Responsible Charge (RC). Responsible Charge means active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site, or on-call direction of employees and assistants. (5-8-09)

106. Responsible Charge Operator. An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (4-6-05)

107. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 504.03.b. of these rules, the qualified Idaho licensed professional engineer (QLPE) is also the reviewing authority. (5-8-09)

- 108. Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)
- 109. Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)
- 110. Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)
- a.** Source; (4-5-00)
 - b.** Treatment; (4-5-00)
 - c.** Distribution system; (4-5-00)
 - d.** Finished water storage; (4-5-00)
 - e.** Pumps, pump facilities, and controls; (4-5-00)
 - f.** Monitoring and reporting and data verification; (4-5-00)
 - g.** System management and operation; and (4-5-00)
 - h.** Operator compliance with state requirements. (4-5-00)
- 111. SDWIS-State.** An acronym that stands for “Safe Drinking Water Information System-State Version.” It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)
- 112. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (3-30-07)
- 113. Significant Deficiency.** As identified during a sanitary survey, any defect in a system’s design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)
- 114. Simple Water Main Extension.** New or replacement water main(s) that require plan and specification review by a qualified licensed professional engineer (QLPE) or by the Department per these rules and that is connected to existing water main facilities and does not require the addition of system components designed to control quantity or pressure, including, but not limited to, booster stations, new sources, pressure reducing stations, or reservoirs; and continues to provide the pressure and quantity requirements of Subsection 552.01. (~~5-8-09~~)(____)
- 115. Special Irrigation District.** An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (4-6-05)
- 116. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)
- 117. Standby Storage.** Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

118. Substantially Modified. The Department shall consider a public water system to be substantially modified when, as the result of one (1) or more projects, there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the population served or number of service connections, the total length of transmission and distribution water mains, and the peak or average water demand. (5-8-09)

119. Substitute Responsible Charge Operator. An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

120. Surface Water System. A public water system which is supplied by one (1) or more surface water sources or ground water sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

121. SUVA (Specific Ultraviolet Absorption). SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in m=1) by its concentration of dissolved organic carbon (DOC) (in mg/l). (3-30-07)

122. Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

123. Total Trihalomethanes (TTHM). The sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane, bromodichloromethane and tribromomethane [bromoform]), rounded to two (2) significant figures. (4-2-08)

124. Transient Noncommunity Public Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

125. Treatment Facility. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

126. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

127. Two-Stage Lime Softening. A process in which chemical addition and hardness precipitation occur in each of two (2) distinct unit clarification processes in series prior to filtration. (4-2-08)

128. Uncovered Finished Water Storage Facility. A tank, reservoir, or other facility that is directly open to the atmosphere and used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection. (4-2-08)

129. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

130. Use Assessment. For the purpose of obtaining a waiver from certain monitoring requirements, a use assessment is an evaluation as to whether synthetic organic contaminants are being or have been used, manufactured, transported, stored, or disposed of in the watershed for surface water or the zone of influence for ground water. (5-8-09)

131. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment

technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deterrent does not cause an unreasonable risk to public health. (12-10-92)

132. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

133. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

134. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

135. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 500 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (3-30-07)

b. For purposes of Sections 500 through 552, “waiver” means a dismissal of any requirement of compliance. (3-30-07)

c. For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

136. Wastewater. ~~Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. See IDAPA 58.01.16, “Wastewater Rules,” for additional information.~~ (3-30-07)(____)

137. Water for Human Consumption. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water,” “drinking water,” and “potable water” are frequently used as synonyms. (5-3-03)

138. Water Demand. The volume of water requested by system users to satisfy their needs. Water demand can be further categorized as: (5-8-09)

a. Average day demand. The volume of water used by a system on an average day based on a one (1) year period. (5-8-09)

b. Maximum day demand. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. (5-8-09)

c. Peak hour demand. The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. (5-8-09)

139. Water Main. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections or conveys water to a fire hydrant. The collection of water mains within a given water supply is called the distribution system. (5-8-09)

140. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-30-07)

141. Wholesale System. A public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

01. Microbiological Contaminant Sampling and Analytical Requirements. (10-1-93)

a. 40 CFR 141.21, revised as of July 1, 2007, is herein incorporated by reference. (5-8-09)

b. The Department may reduce the total coliform monitoring frequency for community water systems serving twenty-five (25) to one thousand (1000) persons, as specified in 40 CFR 141.21(a)(2) and Subsection 100.01. The Department may allow community water systems serving twenty-five (25) to one thousand (1000) persons to reduce the total coliform monitoring frequency to once per quarter when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. There has been no history of total coliform contamination in it's current configuration; and (10-1-93)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a ground water source that is protected. (12-10-92)

c. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving less than one thousand (1000) persons as specified in 40 CFR 141.21(a)(3)(i) and Subsection 100.01 of this rule. The Department may allow noncommunity water systems serving less than one thousand (1000) persons to reduce the total coliform monitoring frequency to once per year when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a ground water source that is protected. (12-10-92)

d. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving more than one thousand (1000) persons during any month the system serves one thousand (1000)

persons or fewer as specified in 40 CFR 141.21(a)(3)(ii) and Subsection 100.01. The Department will allow noncommunity water systems serving more than one thousand (1000) persons to reduce the total coliform monitoring frequency for any month the system serves one thousand (1000) persons or fewer, down to a minimum of one (1) sample per year, provided; (10-1-93)

- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
- ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)
- iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
- iv. A sanitary survey has been conducted within the past five (5) years which indicates that there are no deficiencies which could effect microbial quality; and (12-10-92)
- v. The system uses only a ground water source that is protected. (12-10-92)
- e. A system must collect repeat samples within twenty-four (24) hours of notification of positive results as specified in 40 CFR 141.21(b) and Subsection 100.01. The Department may allow a system to delay collection of repeat samples if the system; (12-10-92)
 - i. Identifies the cause of the contamination; (12-10-92)
 - ii. Is making progress towards correcting the problem; (12-10-92)
 - iii. Submits a written request to delay collecting repeat samples and a written statement admitting an acute MCL violation; (12-10-92)
 - iv. Follows public notification requirements specified under 40 CFR Part 141, Subpart Q, revised as of July 1, 2006, for Tier 1 MCL violations including notice for consumers to boil their water; (4-2-08)
 - v. Continues to collect the regularly scheduled number of routine samples; (12-10-92)
 - vi. Collects all repeat samples immediately following correction of the problem; and (12-10-92)
 - vii. Collects five (5) routine samples during the month following the end of the violation as required under 40 CFR 141.21 (b)(5), unless waived as allowed under that paragraph. (12-10-92)

02. Turbidity Sampling and Analytical Requirements. 40 CFR 141.22, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

03. Inorganic Chemical Sampling and Analytical Requirements. 40 CFR 141.23, revised as of July 1, 2007, is herein incorporated by reference. (5-8-09)

04. Organic Chemicals Other Than Total Trihalomethanes, Sampling and Analytical Requirements. 40 CFR 141.24, revised as of July 1, 2007, is herein incorporated by reference. (5-8-09)

05. Analytical Methods for Radioactivity. 40 CFR 141.25, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems. 40CFR 141.26, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

07. ~~Monitoring Waivers and Vulnerability Assessments.~~ ~~40 CFR 141.23(b) 141.23(c), 141.24(f), 141.24(h), revised as of July 1, 2009, are herein incorporated by reference.~~ (10-1-93)()

a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, 503.~~403.k.i~~ and 503.~~203.k.ii~~ may be available to all systems for all contaminants except nitrate, nitrite, ~~arsenic~~ and ~~trihalomethanes~~ disinfection byproducts and are based upon a vulnerability assessment, use assessment, the analytical results of previous sampling, or some combination of vulnerability assessment, use assessment, and analytical results.

(5-8-09)()

b. There are two (2) general types of monitoring waivers: (12-10-92)

i. Waivers based exclusively upon previous analytical data (12-10-92)

ii. Waivers based on a use or vulnerability assessment. (12-10-92)

c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)

d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

e. Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (12-10-92)

f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

08. Initial Monitoring Schedule. In addition to the requirements specified in 40 CFR 141.23, revised as of July 1, 2004, 40 CFR 141.24, revised as of July 1, 2004, and 40 CFR 141.40, revised as of July 1, 2001, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department:

(4-6-05)

a. Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

09. Alternate Analytical Techniques. 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

10. Approved Laboratories. 40 CFR 141.28, revised as of July 1, 2007, is herein incorporated by reference. All analyses conducted pursuant to these rules, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories, as provided in IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories." The following analyses may be performed by any person acceptable to the Department of Environmental Quality: (5-8-09)

- a. pH; (12-10-92)
- b. Turbidity (Nephelometric method only); (12-10-92)
- c. Daily analysis for fluoride; (12-10-92)
- d. Temperature; (5-8-09)
- e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.c.; (5-8-09)
- f. Alkalinity; (5-8-09)
- g. Calcium; (5-8-09)
- h. Conductivity; (5-8-09)
- i. Silica; and (5-8-09)
- j. Orthophosphate. (5-8-09)

11. Consecutive Water System. 40 CFR 141.29 is herein incorporated by reference. (10-1-93)

12. Total Trihalomethane Sampling, Analytical and Other Requirements. 40 CFR ~~Part 141.30, Subpart L,~~ revised as of July 1, 2007, is herein incorporated by reference. (~~5-8-09~~)()

(BREAK IN CONTINUITY OF SECTIONS)

300. FILTRATION AND DISINFECTION.

01. General Requirements. 40 CFR 141.70, revised as of July 1, 2002, is herein incorporated by reference. Each public water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel, as specified in Sections 553 and 554, who have met state requirements for licensing of water system operators. (4-6-05)

~~02. Criteria for Avoiding Filtration.~~ 40 CFR 141.71, revised as of July 1, 2002, is herein incorporated by reference. (~~5-3-03~~)

02. Filtration. 40 CFR 141.73, revised as of July 1, 2002, is herein incorporated by reference. ()

a. Each system which provides filtration treatment shall submit engineering evaluations, other documentation, or some combination of engineering evaluations and other documentation as required by the Department to demonstrate ongoing compliance with these rules. ()

b. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal credit allowed for filtration is as follows:

Maximum Log Removal		
Filtration Type	Giardia	Viruses
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Membrane	3.0	1.0
Alternate technology	2.0	0

()

- c.** Filtration removal credit shall be granted for filtration treatment provided the system is: ()
 - i.** Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; and ()
 - ii.** The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and ()
 - iii.** Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and ()
 - iv.** Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and ()
 - v.** Diatomaceous earth filters are operated at a rate not to exceed one point five (1.5) gallons per minute per square foot. ()

03. Criteria for Avoiding Filtration. 40 CFR 141.71, revised as of July 1, 2002, is herein incorporated by reference. ()

034. Disinfection. 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or ground water source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at peak hour demand before delivery to the first customer. (5-8-09)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide at least ninety-nine and nine tenths percent (99.9%) inactivation/removal of Giardia lamblia cysts and ninety-nine and ninety-nine one hundredths percent (99.99%) inactivation/removal of viruses as specified in 40 CFR 141.72 and Section 300. However, in all cases the disinfection portion of the treatment train shall be designed to provide not less than five tenths (0.5) log Giardia inactivation, irrespective of the Giardia removal credit awarded to the filtration portion of the treatment train. (5-8-09)

~~i. Each system which provides filtration treatment shall submit engineering evaluations, other documentation, or some combination of engineering evaluations and other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.e. (5-8-09)~~

~~ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal credit allowed for filtration is as follows:~~

Maximum Log Removal		
Filtration Type	Giardia	Viruses
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Membrane	3.0	1.0
Alternate technology	2.0	0

~~(5-8-09)~~

~~iii. Filtration removal credit shall be granted for filtration treatment provided the system is:~~

~~(12-10-92)~~

~~(1) Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; and~~

~~(12-10-92)~~

~~(2) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and~~

~~(12-10-92)~~

~~(3) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and~~

~~(12-10-92)~~

~~(4) Slow sand filters are operated at a rate not to exceed one tenth (0.1) gallons per minute per square foot; and~~

~~(12-10-92)~~

~~(5) Diatomaceous earth filters are operated at a rate not to exceed one and one half (1.5) gallons per minute per square foot.~~

~~(12-10-92)~~

~~04. Filtration. 40 CFR 141.73, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)~~

~~05. Analytical and Monitoring Requirements. 40 CFR 141.74, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)~~

~~a. Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)~~

~~i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of Giardia lamblia cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)~~

~~ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)~~

- and
- (1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; (12-10-92)
 - (2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)
 - (3) The disinfectant contact time, "T," must be determined each day during peak hour demand. Disinfectant contact time, "T," in pipelines used for *Giardia lamblia* and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hour flow rate through that pipe. Disinfectant contact time, "T," for all other system components used for *Giardia lamblia* and virus inactivation shall be determined by tracer studies or equivalent methods. (5-8-09)
 - (4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hour demand, or at other times approved by the Department. (5-8-09)
 - iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)
 - iv. The total inactivation ratio shall be calculated as follows: (12-10-92)
 - (1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)
 - (a) One inactivation ratio (CT_{calc}/CT_{99.9}) is determined at/or before the first customer during peak hour demand; or (5-8-09)
 - (b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hour demand. The following method must be used to calculate the total inactivation ratio: (5-8-09)
 - (i) Step 1: Determine (CT_{calc}/CT_{99.9}) for each sequence. (12-10-92)
 - (ii) Step 2: Add the (CT_{calc}/CT_{99.9}) values for all sequences. The result is the total inactivation ratio. (12-10-92)
 - (2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hour demand. The sum of the (CT_{calc}/CT_{99.9}) values from all sequences is the total inactivation ratio. (CT_{calc}/CT_{99.9}) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (5-8-09)
 - v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)
 - vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)
 - b.** Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement must be approved by the Department. (4-6-05)
 - c.** As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring

requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	Samples/day
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. (12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: (12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2) The water source is well protected; (12-10-92)

(3) The total coliform MCL is not exceeded; and (12-10-92)

(4) No significant health risk is present. (12-10-92)

d. The Department may allow systems with surface water sources or ground water sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

e. The Department may allow systems using both a surface water source(s), or ground water source(s) under the direct influence of surface water, and one (1) or more ground water sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement. (10-1-93)

f. The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

06. Reporting and Recordkeeping. 40 CFR 141.75, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

a. As provided in 40 CFR 141.75(a), revised as of July 1, 2001, and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a), revised as of July 1, 2001, and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (3-15-02)

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

- (1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)
- (2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)
- (3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

- (1) Turbidity monitoring information; and (12-10-92)
- (2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

b. In addition to the reporting requirements in 40 CFR 141.75(b), revised as of July 1, 2001, pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of *Giardia lamblia* and virus inactivation/removal achieved each day by filtration and disinfection. (5-8-09)

07. Recycle Provisions. 40 CFR 141.76, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

a. The Department shall evaluate recycling records kept by water systems pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other inspections. (5-3-03)

b. The Department may require a system to modify recycling practices if it can be shown that these practices adversely affect the ability of the system to meet surface water treatment requirements. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

322. STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS.

40 CFR Part 141, Subpart V, revised as of July 1, 2006~~9~~², is herein incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR Part 141, Subpart V. (4-2-08)(____)

(BREAK IN CONTINUITY OF SECTIONS)

504. FACILITY AND DESIGN STANDARDS: REVIEW OF PLANS AND SPECIFICATIONS.

The facility and design standards set forth in these rules shall be applied in the review of plans and specifications for public water system facilities. If design issues are not addressed by the facility and design standards set out in these rules, then guidance documents, some of which are listed in Subsection 002.02., shall be used as guidance in the design and review of plans and specifications for public drinking water facilities. See also Section 013. (3-30-07)

01. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (3-30-07)

02. Connection to an Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that the purveyor will be able to provide services to the proposed project. The Department may require documentation supporting the ability of the purveyor to provide service to the new system without diminishing quality of service to existing customers. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. (3-30-07)

03. Plans and Specifications Required. (3-30-07)

a. Prior to construction of new public drinking water systems, new drinking water systems designed to serve ~~ten~~ fifteen (105) or more service connections, or material modifications of existing public water systems, plans and specifications must be submitted to the Department for review and approval. Construction should commence as soon as practical after approval, and if construction does is not commence completed within twelve (12) months of the Department's final approval, an extension or re-approval must be obtained from the Department. ~~The Department may require re-submittal of all or part of the plans and specifications prior to issuing an extension or re-approving the plans and specifications.~~ (3-30-07)()

b. Plans and specifications for simple water main extensions shall not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a QLPE who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. Any plans and specifications approved pursuant to Subsection 504.03.b. shall be transmitted to the Department at the time construction is authorized and shall be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 504.03.b.i. through 504.03.b.vii. The plans and specifications must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. (5-8-09)

i. A statement that the author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. (5-8-09)

ii. A statement that the extension project complies with the current facility plan or preliminary engineering report, or a statement that the water system has adequate capacity. Please see Subsection 502.01.b. for further information. (5-8-09)

iii. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will serve the project. (5-8-09)

iv. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will own and operate the project after construction is complete. (5-8-09)

- v. A statement by the QLPE that the plans and specifications are approved for construction. (5-8-09)
- vi. A statement by the QLPE that the plans and specifications comply with the facility standards within these rules. (5-8-09)
- vii. A statement recommending whether sanitary restrictions can be released or should remain in force. (5-8-09)
- c.** Subsections 504.03.c.i. through 504.03.c.vi. outline the projects which QLPEs may approve and which QLPEs may not approve. (5-8-09)
- i. A QLPE may approve plans and specifications for simple water main extensions that are able to connect to an existing water system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE. (5-8-09)
- ii. A QLPE may approve plans for simple water main extensions which will connect to an existing water system, but are unable to connect to the system at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension. (5-8-09)
- iii. A QLPE may not approve plans and specifications which include mechanical systems such as booster stations. (5-8-09)
- iv. A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design. (5-8-09)
- v. A QLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility. (5-8-09)
- vi. A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the QLPE is employed. (5-8-09)
- d.** At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by Subsection 504.03.b. may be referred to the Department for review and approval prior to initiation of construction. (3-30-07)
- e.** New or updated operation and maintenance manual or manuals, as required in Subsection 501.12, shall be submitted to the Department for review and approval prior to start-up of the new or modified public water system. (3-30-07)
- 04. Criteria for Review.** The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with the rule. (3-30-07)
- 05. Schedule for Review.** The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 504.05 with such records including the final decision rendered and the timeliness thereof. (3-30-07)
- 06. Engineer's Seal Required.** Plans and specifications submitted to the Department shall bear the

imprint of an Idaho licensed professional engineer's seal; except that the Department will accept the seal of an Idaho licensed professional geologist on the following: (3-30-07)

a. Well source, spring source, or infiltration gallery site evaluation reports, as specified in Subsections 510 and 514. (3-30-07)

b. Plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. (3-30-07)

07. Contents of Plans and Specifications. Plans and specifications shall, where pertinent, provide the following: (3-30-07)

a. General layout, including: (3-30-07)

i. Suitable title. (3-30-07)

ii. Name of municipality or other entity or person responsible for the water supply. (3-30-07)

iii. Area or institution to be served. (3-30-07)

iv. Scale of drawings. (3-30-07)

v. North arrow. (3-30-07)

vi. Datum used. (3-30-07)

vii. General boundaries of municipality or area to be served. (3-30-07)

viii. Date, name, and address of the designing engineer. (3-30-07)

ix. Legible prints suitable for reproduction. (3-30-07)

x. Location and size of existing water mains, if applicable. (3-30-07)

xi. For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. (3-30-07)

b. Detailed plans, including: (3-30-07)

i. Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels. (3-30-07)

ii. Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets. (3-30-07)

iii. Topography and arrangement of present or planned wells or structures. (3-30-07)

iv. Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper termination of protective casings, and grade surrounding facilities. (3-30-07)

v. Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Section 510. (3-30-07)

vi. Location of all known existing and potential sources of pollution within five hundred (500) feet of water sources or underground treated storage facilities. (3-30-07)

- vii. Size, length, and materials of proposed water mains. (3-30-07)
- viii. Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools. (3-30-07)
- ix. Schematic flow diagrams and hydraulic profiles showing the flow through various plant units. (3-30-07)
- x. Piping in sufficient detail to show flow through the plant including waste lines. (3-30-07)
- xi. Locations of all chemical storage areas, chemical feeding equipment, and points of chemical application. (3-30-07)
- xii. All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures. (3-30-07)
- xiii. Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department. (3-30-07)
- xiv. Locations, dimensions, and elevations of all proposed plant facilities. (3-30-07)
- xv. Locations of all sampling taps owned by the water system. (3-30-07)
- xvi. Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. (3-30-07)
- c.** Complete, detailed technical specifications shall be supplied for the proposed project, including: (3-30-07)
 - i. A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service. (3-30-07)
 - ii. Laboratory facilities and equipment. (3-30-07)
 - iii. Description of chemical feeding equipment. (3-30-07)
 - iv. Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service. All wells, pipes, tanks, and equipment which can convey or store potable water shall be disinfected in accordance with AWWA Standards, incorporated into these rules at Subsection 002.01. Plans or specifications shall outline the procedure and include the disinfectant dosage, contact time, and method of testing the results of this procedure. (3-30-07)
 - v. Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. (3-30-07)
- d.** Complete design criteria, as set forth in these rules. (3-30-07)
- e.** The Department may require additional information which is not part of the construction drawings, including, but not limited to, head loss calculations, proprietary technical data, and copies of contracts. (3-30-07)
- 08. Notification of Material Deviations.** As set forth in Subsection 504.03, during construction or modification, the reviewing authority must be notified of any material deviation from the approved plans. The reviewing authority's prior written approval is required before any material deviation is allowed. (3-30-07)
- 09. Record Plans and Specifications Required.** (5-8-09)
 - a.** Within thirty (30) calendar days of the completion of construction of facilities for which plans are

required to be reviewed pursuant to Subsection 504.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Department by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (3-30-07)

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (5-8-09)

c. The Department will accept the seal of an Idaho licensed professional geologist on record plans and specifications, or a statement bearing the seal of an Idaho licensed professional geologist in lieu of record plans and specifications, for record plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. (5-8-09)

10. Exception. The Department may waive the plan and specification approval required of any particular facility or category of facilities when doing so will have no significant impact on public health or the environment. (3-30-07)

11. Requirement to Have Approved Plans and Specifications and Approval Letter On-Site During Construction. It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (3-30-07)

12. Construction. Except as provided in Subsection 504.03.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a public drinking water system facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 504.09. (3-30-07)

505. -- 509. (RESERVED).

510. FACILITY AND DESIGN STANDARDS: SITING AND CONSTRUCTION OF WELLS.

Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (3-30-07)

01. Site Approval. Prior to drilling, the site of a public water system well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (3-30-07)

a. An evaluation of the potability and quality of anticipated ground water. (5-3-03)

b. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)

c. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)

d. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process. (3-30-07)

e. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (5-3-03)

f. Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

02. Location. Each well shall be staked by the design engineer or licensed professional geologist prior to drilling, be located a minimum of fifty (50) feet from the nearest property line, be located a minimum of fifty (50) feet from any potential source of contamination, and be no closer to specified sources of contamination than set forth in Subsection 900.01. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. (5-8-09)

03. Construction Standards. In addition to meeting the requirements of these rules, all wells shall be constructed in accordance with IDAPA 37.03.09, "Well Construction Standards Rules," and related rules and laws administered by the Idaho Department of Water Resources. All wells shall comply with the drilling permit requirements of Section 42-235, Idaho Code. (5-3-03)

a. Casing that meets the requirements set forth in Subsection 900.02 (Table 2). The use of plastic well casing for public water system wells may be considered on a case-by-case basis. Plastic casing shall meet or exceed ASTM Standard F480-02 and ANSI/NSF Standard 61. (5-8-09)

b. Public water system wells shall have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: (3-30-07)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)

iv. More stringent standards are required by applicable Rules of the Idaho Water Resources Board, referenced in Subsection 002.02. (3-30-07)

c. Specifications shall include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. (3-30-07)

d. Geological data shall be collected at each pronounced change in formation and shall be recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. (3-30-07)

e. The owner of each well shall retain all records pertaining to each well until the well has been properly abandoned. (3-30-07)

f. Wells with intake screens shall: (3-30-07)

i. Be constructed of materials resistant to damage by chemical action of ground water or cleaning operations. (3-30-07)

ii. Have openings based on sieve analysis of formation or gravel pack materials. (5-8-09)

iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point three (0.3) feet per second, or as otherwise approved by the Department. (3-30-07)

iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it shall be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. (3-30-07)

g. Permanent well casing shall be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.b. of these rules, or by the Rules of the Idaho Water Resources Board referenced in Subsection 002.02, whichever is greater. All casing identified in plans and specifications as temporary casing shall be removed prior to well completion. (5-8-09)

i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, shall be used for one and one-half (1 ½) inch openings. Additives may be used to enhance effectiveness and are subject to approval by the reviewing authority and the Idaho Department of Water Resources on a case-by-case basis. (3-30-07)

ii. Bentonite grout shall have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout shall not contain weighting agents to increase solids content. Bentonite grout shall not be used above the water table. All bentonite grout shall be installed by positive displacement from the bottom up through a tremmie or float shoe. (3-30-07)

iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing shall be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite shall be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-30-07)

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet shall require an annulus of at least three (3) inches on all sides of the casing, or as approved by the reviewing authority and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-30-07)

v. All chip bentonite seals installed through water shall only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water shall be: (3-30-07)

(1) Installed in accordance with manufacturer's specifications; or (3-30-07)

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or (3-30-07)

(3) Installed using coated pellets to retard hydration if approved by the reviewing authority and the Idaho Department of Water Resources. (3-30-07)

vi. Concrete may be approved on a case-by-case basis by the reviewing authority and the Idaho Department of Water Resources. Upon such approval, the approved method shall use a six (6) sack minus one-half (1/2) inch Portland cement concrete and shall be installed by positive displacement from the bottom up through a tremmie pipe. (3-30-07)

04. Disinfection. All tools, bits, pipe, and other materials to be inserted in the borehole shall be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, referenced in Subsection 002.02 This applies to new well construction and repair of existing wells.

(3-30-07)

05. ~~Information~~ Well Completion Report Required. Upon completion of a ~~groundwater source~~ well, and prior to its use as a drinking water source, the following information and data must be submitted by the water system to the Department. The well completion report must be submitted to the Department prior to or concurrent with the submittal of the preliminary engineering report for well house construction/modification. The well completion report shall bear the imprint of an Idaho licensed professional engineer's or an Idaho licensed professional geologist's seal that is both signed and dated by the engineer or geologist: (~~3-30-07~~)(____)

- a. A copy of all well logs; (12-10-92)
- b. Results of test pumping, as specified in Subsection 510.06; (~~3-30-07~~)(____)
- c. As constructed plans showing at least the following: (12-10-92)
 - i. Annular seal, including depth and sealant material used and method of application; (5-3-03)
 - ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)
 - iii. ~~Recommended~~ pump location; and (~~12-10-92~~)(____)
 - iv. For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. Where pneumatic or electronic water level measuring equipment is used, it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and in such a manner as to prevent entrance of foreign materials. (3-30-07)
- d. Other information as may be specified by the Department. (12-10-92)
- e. Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsections 510.05.e.i. through 510.05.e.iii. (5-8-09)
 - i. Community Systems. Results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (5-8-09)
 - ii. Nontransient Noncommunity Systems. Results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (5-8-09)
 - iii. Transient Noncommunity Systems. Results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (5-8-09)

06. Test Pumping. Upon completion of a ground water source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

- a. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the water system shall be re-evaluated and submitted to the Department for approval. (3-30-07)

b. Upon completion of well development, the well shall be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, or re-developed. (3-30-07)

c. The following data shall be provided: (5-3-03)

i. Static water level in the well prior to test pumping; (5-3-03)

ii. Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)

iii. Water level in the well recorded at regular intervals during pumping; (5-3-03)

iv. Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

v. Depth at which the test pump was positioned in the well; (5-3-03)

vi. Test pump capacity and head characteristics; (5-3-03)

vii. Sand production data. (5-3-03)

viii. ~~Any available~~ Results of analysis based on the drawdown and recovery test pertaining to aquifer properties, long term sustained yield, and boundary conditions affecting drawdown. (~~5-3-03~~)()

d. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (3-30-07)

e. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site specific investigations that could include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer is sufficient to meet the long-term water requirements of the project. (4-11-06)

07. Conversion of Non-Public Water System Wells for Public Water System Use. Any existing well constructed for use other than as a public water system source may be considered for use as a public water system source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health and that both the quantity and quality of water produced by the well meet public water system standards set forth in these rules. (5-8-09)

08. Observation Wells. If observation wells are used and are intended to remain in service after completion of the water supply well, the observation wells shall be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. (3-30-07)

09. Well Abandonment. Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the ground water, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. See Rules of the Idaho Water

Resources Board referenced in Subsection 002.02.

(3-30-07)

511. FACILITY AND DESIGN STANDARDS: WELL PUMPS, DISCHARGE PIPING, AND APPURTENANCES.

01. Sample Tap Required. A sample tap suitable for collecting bacteriological samples shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. (5-8-09)

02. Discharge Piping. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap at a location prior to the first service connection, and shall meet the following requirements: (3-30-07)

- a. Be designed to minimize friction loss. (3-30-07)
- b. Have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided. (3-30-07)
- c. Be protected against contamination. (3-30-07)
- d. Vertical turbine pumps shall be equipped with an air release-vacuum relief valve, or equivalent, located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least eighteen (18) inches above the floor and covered with a twenty-four (24) mesh corrosion resistant screen. (3-30-07)
- e. Have all exposed piping, valves and appurtenances protected against physical damage and freezing. (3-30-07)
- f. Be properly anchored to prevent movement, and protected against surge or water hammer. (3-30-07)

03. Pressure Gauge Required. A pressure gauge shall be provided ~~at all installations~~ on all discharge piping. (3-30-07)(____)

04. Flow Meter and Check Valve. Unless otherwise approved by the Department, an instantaneous and totalizing flow meter equipped with nonvolatile memory shall be installed on the discharge line of each well in accordance with the manufacturer's specifications. An accessible check valve, which is not located in the pump column, shall be installed in the discharge line of each well between the pump and the shut-off valve. Additional check valves shall be located in the pump column as necessary. (5-8-09)(____)

05. Well Vent. All wells shall be vented, unless it can be demonstrated that the drawdown under maximum pumping conditions will not exceed ten (10) feet, ~~with~~ The open end of the vent shall be screened with a twenty-four (24) mesh or similar non-corrodible screen and terminated downward at least eighteen (18) inches above the final ground surface. Artesian wells equipped with pumps may need venting or an air valve as determined by the Department. (3-30-07)(____)

06. Casings and Sanitary Well Caps. The following requirements apply to well casings and sanitary caps: (3-30-07)

- a. Casings shall extend a minimum of eighteen (18) inches above the final ground surface, ~~and, if the well is located within a pump house, casings shall extend~~ twelve (12) inches above the pump house floor. ~~If local hydrological conditions require that~~ For a well ~~be~~ located in an area subject to flooding, the Department may require an extension of the casing ~~to extend~~ above the one hundred (100) year or highest known flood level, whichever is higher. (3-30-07)(____)

b. Wells shall be cased and provided with an sanitary approved cap in such a manner that surface water cannot enter the well. (3-30-07)(____)

07. Well Houses. For regulatory purposes, a well house is considered a pump house as defined in Section 003. Well houses must meet the requirements for pump houses as set forth in Section 541. All above ground discharge piping shall be contained in a well house or otherwise protected from freezing. (3-30-07)(____)

08. Pitless Adapters and Units. Pitless adapters or pitless units: (3-30-07)

a. Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

b. Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

c. Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," referenced in Subsection 002.02, or other procedure approved by the Department shall be followed. (3-30-07)

d. Pitless adapters with a two (2) inch or smaller discharge line shall be provided with a swing joint outside the pitless adapter unit to reduce strain, deformation, and possible leakage of the pitless seal caused by settling soils in the trench. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. The hole in the casing shall be cut with a saw rather than a torch with an opening large enough to allow seating of gaskets. (3-30-07)

e. Shall be provided with a contamination-proof entrance connection for electrical cable. (3-30-07)

f. In the case of pitless adapters: (3-30-07)

i. Threaded adapters shall be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. (3-30-07)

ii. The only field welding permitted will be that needed to connect a pitless adapter to the casing. (3-30-07)

g. In the case of pitless units: (3-30-07)

i. Shall be shop-fabricated from the point of connection with the well casing to the unit cap or cover. (3-30-07)

ii. Shall be constructed of materials and weight at least equivalent to and compatible with the well casing. (3-30-07)

iii. Shall be threaded or welded to the well casing. Threaded units shall be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. (3-30-07)

iv. Shall terminate at least eighteen (18) inches above final ground elevation or three (3) feet above the 100-year flood level or the highest known flood elevation, whichever is higher, or as otherwise approved by the Department. (3-30-07)

v. Shall be provided with access to disinfect the well. (3-30-07)

vi. Shall have field connection to the lateral discharge from the pitless unit of threaded, flanged, or

mechanical joint connection. (3-30-07)

h. After installation of a pitless adapter or unit and depending on ground water levels and other subsurface conditions, any disturbed well seal may require repair or replacement to meet original seal specifications as determined by the Department. ()

09. Wells Not Allowed in Pits. Wells shall not be located in pits. Exceptions to this requirement will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (3-30-07)

10. Discharge Pumps. Discharge pumps shall be subject to the following requirements: (3-30-07)

a. Line shaft pumps shall. (3-30-07)

i. Have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least one-half (1/2) inch into the pump base. (3-30-07)

ii. Have the pump foundation and base designed to prevent water from coming into contact with the joint. (3-30-07)

iii. Use lubricants that meet ANSI/NSF Standard 61. (3-30-07)

b. When a submersible pump is used: (3-30-07)

i. The top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables. (3-30-07)

ii. The electrical cable shall be firmly attached to the drop pipe at twenty-one (21) foot intervals or less, or at each coupling or joint. (3-30-07)

512. FACILITY AND DESIGN STANDARDS: WELL LOT.

A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease or easement with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line.

(3-30-07)

01. Use of Chemicals on the Well Lot. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (3-30-07)

02. Storage of Hazardous Materials on the Well Lot. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other materials known to be toxic or hazardous shall be stored on a well lot, except that: (3-30-07)

a. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)

b. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

c. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (4-6-05)

d. Should the internal combustion engine be located within the pump house, the floor of the pump house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor

drain(s). Engine exhaust shall be directly discharged outside the pump house. (3-30-07)

e. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. (4-6-05)

03. Location of Hydrants. Hydrants of the frost free type shall be placed in the buried piping system at a minimum of five (5) feet away from the well casing to prevent drain water from accumulating and compromising the grout seal surrounding the well casing. (5-8-09)

04. Parking Lots and Vehicle Storage. No public parking or vehicle storage shall be allowed on the well lot, except that operation/maintenance vehicles may be temporary parked on the well lot during the normal course of business. ()

(BREAK IN CONTINUITY OF SECTIONS)

514. FACILITY AND DESIGN STANDARDS: SPRING SOURCES.

Written approval by the Department is required before water from any new or reconstructed spring source may be served to the public. For new spring sources, the Department ~~may~~ shall require a site evaluation report ~~as set forth for wells containing applicable required information listed in Subsection 510.01. This information includes, but is not limited to, the following: an evaluation of the potability and quality of anticipated spring water; an estimate of hydrologic and geologic properties of the aquifer; and a description of potential sources of contamination within five hundred (500) feet of the spring.~~ Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (3-30-07)()

01. Protection of the Spring. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust. The spring box shall be equipped with a twenty-four (24) mesh or similar non-corrodible, screened overflow. The inlet shall be similarly screened and located above the floor of the collection chamber. (3-30-07)()

02. Access to Spring Box. Each spring box access shall be elevated at least twenty-four (24) inches above the top of the box or the ground level, whichever is higher. The actual height above the top of the box or the ground level must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. Each access shall be fitted with a solid water tight cover which overlaps a framed opening and extends down around the frame at least two (2) inches. The frame shall be at least four (4) inches high and shall have a locking device. (5-8-09)

03. Sample Tap Required. A sample tap suitable for collecting bacteriological samples shall be provided. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. (5-8-09)

04. Flow Measurement. A flow meter or other flow measuring device shall be provided. (3-30-07)

05. Protected Area. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water shall be diverted from this area. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

531. FACILITY DESIGN STANDARDS: DESIGN STANDARDS FOR CHEMICAL APPLICATION.

- 01. General Equipment Design.** General equipment design shall be such that: (3-30-07)
- a.** Feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate, throughout the range of feed. (3-30-07)
 - b.** Chemical-contact materials and surfaces are resistant to the aggressiveness of the chemical solution. (3-30-07)
 - c.** Corrosive chemicals are introduced in such a manner as to minimize potential for corrosion. (3-30-07)
 - d.** Chemicals that are incompatible are not stored or handled together. At facilities where more than one (1) chemical is stored or handled, tanks and pipelines shall be clearly labeled to identify the chemical they contain. (3-30-07)
 - e.** All chemicals are conducted from the feeder to the point of application in separate conduits. (3-30-07)
 - f.** Chemical feeders are as near as practical to the feed point. (3-30-07)
 - g.** Chemical feeders and pumps shall operate at no lower than twenty percent (20%) of the feed range unless two fully independent adjustment mechanisms such as pump pulse rate and stroke length are fitted when the pump shall operate at no lower than ten percent (10%) of the rated maximum. (3-30-07)
 - h.** Spare parts shall be on hand for parts of feeders that are subject to frequent wear and damage. (5-8-09)
 - i.** Redundant chemical feeders with automatic switchover shall be provided when necessary to ensure adequate treatment. (5-8-09)
- 02. Facility Design.** (3-30-07)
- a.** Where chemical feed is necessary for the protection of the supply, such as disinfection, coagulation or other essential processes, a minimum of two feeders shall be provided and a separate feeder shall be used for each chemical applied. (3-30-07)
 - b.** Chemical application control systems shall meet the following requirements: (3-30-07)
 - i.** Feeders may be manually or automatically controlled, with automatic controls being designed so as to allow override by manual controls. (3-30-07)
 - ii.** Chemical feeders shall be controlled by a flow sensing device so that injection of the chemicals will not continue when the flow of water stops. (3-30-07)
 - iii.** Chemical feed rates shall be proportional to flow. (3-30-07)
 - iv.** A means to measure water flow must be provided in order to determine chemical feed rates. (3-30-07)
 - v.** Provisions shall be made for measuring the quantities of chemicals used. (3-30-07)
 - vi.** Weighing scales shall be provided for weighing cylinders at all plants utilizing chlorine gas, fluoride solution feed. (3-30-07)

- vii. Weighing scales shall be capable of providing reasonable precision in relation to average daily dose. (5-8-09)
- viii. Where conditions warrant, for example with rapidly fluctuating intake turbidity, coagulant and coagulant aid addition may be made according to turbidity, streaming current or other sensed parameter. (3-30-07)
- c.** Dry chemical feeders shall measure chemicals volumetrically or gravimetrically, provide adequate solution water and agitation of the chemical in the solution pot, and completely enclose chemicals to prevent emission of dust to the operating room. (3-30-07)
- d.** Positive displacement type solution feed pumps must be capable of operating at the required maximum head conditions found at the point of injection. (3-30-07)
- e.** Liquid chemical feeders shall be such that chemical solutions cannot be siphoned or overfed into the water supply, by assuring discharge at a point of positive pressure, or providing vacuum relief, or providing a suitable air gap, or providing other suitable means or combinations as necessary. (3-30-07)
- f.** Cross connection control must be provided to assure that the following requirements are satisfied. (3-30-07)
- i. The service water lines discharging to solution tanks shall be properly protected from backflow. (5-8-09)
- ii. No direct connection exists between any sewer and a drain or overflow from the feeder, solution chamber or tank by providing that all drains terminate at least six (6) inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle. (3-30-07)
- g.** Chemical feed equipment shall be readily accessible for servicing, repair, and observation of operation. (3-30-07)
- h.** In-plant water supply for chemical mixing shall be: (3-30-07)
- i. Ample in quantity and adequate in pressure. (3-30-07)
- ii. Provided with means for measurement when preparing specific solution concentrations by dilution. (3-30-07)
- iii. Properly treated for hardness, when necessary. (3-30-07)
- iv. Properly protected against backflow. (3-30-07)
- v. Obtained from a location sufficiently downstream of any chemical feed point to assure adequate mixing. (3-30-07)
- i.** Chemical storage facilities shall satisfy the following requirements: (3-30-07)
- i. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and not used for different chemicals. Off-loading areas must be clearly labeled to prevent accidental cross-contamination. (3-30-07)
- ii. Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into an approved storage unit. (3-30-07)
- j.** Bulk liquid storage tanks shall comply with the following requirements: (5-8-09)
- i. A means which is consistent with the nature of the chemical solution shall be provided in a solution tank to maintain a uniform strength of solution. Continuous agitation shall be provided to maintain slurries in

- suspension. (3-30-07)
- ii. Means shall be provided to measure the liquid level in the tank. (3-30-07)
 - iii. Bulk liquid storage tanks shall be kept covered. Bulk liquid storage tanks with access openings shall have such openings curbed and fitted with overhanging covers. (5-8-09)
 - iv. Subsurface locations for bulk liquid storage tanks shall be free from sources of possible contamination, and assure positive drainage for ground waters, accumulated water, chemical spills and overflows. (5-8-09)
 - v. Bulk liquid storage tanks shall be vented, but shall not vent through vents common with day tanks. Acid storage tanks must be vented to the outside atmosphere, but not through vents in common with day tanks. (5-8-09)
 - vi. Each bulk liquid storage tank shall be provided with a valved drain, protected against backflow. (5-8-09)
 - vii. Bulk liquid storage tanks shall have an overflow that is turned downward with the end screened with a twenty-four (24) mesh or similar non-corrodible screen, has a free fall discharge, and is located where noticeable. ~~(5-8-09)~~(____)
 - viii. Bulk liquid storage tanks shall be provided with secondary containment so that chemicals from equipment failure, spillage, or accidental drainage shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The bulk liquid storage tank basin or the common receiving basin shall provide a secondary containment volume sufficient to hold the volume of the largest storage tank. Piping shall be designed to minimize or contain chemical spills in the event of pipe ruptures. (5-8-09)
 - ix. Where chemical feed is necessary for the protection of the supply, a means to assure continuity of chemical supply while servicing a bulk liquid storage tank shall be provided. (5-8-09)
 - k.** Day tanks are subject to the requirements in Subsections 531.02.k.i. through 531.02.k.iv. For the purposes of Section 531, day tanks are defined as liquid chemical tanks holding no more than a thirty (30) hour chemical supply. (5-8-09)
 - i. Day tanks shall be provided where bulk storage of liquid chemicals are provided. The Department may allow chemicals to be fed directly from shipping containers no larger than fifty-five (55) gallons. (5-8-09)
 - ii. Day tanks shall meet all the requirements of Subsection 531.02.j., with the exception of Subsection 531.02.j.viii. Shipping containers do not require overflow pipes or drains as required by Subsection 531.02.j. and are not subject to the requirements of Subsection 531.02.j.viii. (5-8-09)
 - iii. Where feasible, secondary containment shall be provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The common receiving basin shall provide a secondary containment volume sufficient to hold the volume of the largest storage tank. If secondary containment is not feasible, day tanks shall be located and protective curbing provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall not enter the water in conduits, treatment, or storage basins. Secondary containment is not required for a day tank if an Idaho licensed professional engineer demonstrates to the Department that the chemical concentration and volume, if spilled, will not be a safety hazard to employees, will not be hazardous to the public health, and will not harm the environment. (5-8-09)
 - iv. Day tanks and the tank refilling line entry points shall be clearly labeled with the name of the chemical contained. (5-8-09)
 - l.** Provisions shall be made for measuring quantities of chemicals used to prepare feed solutions. (3-30-07)

m. Vents from feeders, storage facilities and equipment exhaust shall discharge to the outside atmosphere above grade and remote from air intakes. (3-30-07)

03. Chemicals. Chemical shipping containers shall be fully labeled to include chemical name, purity and concentration, supplier name and address, and evidence of ANSI/NSF certification where applicable. (3-30-07)

04. Safety Requirements for Chemical Facilities. (3-30-07)

a. The following requirements apply to chlorine gas feed and storage rooms: (3-30-07)

i. Each storage room shall be enclosed and separated from other operating areas. They shall be constructed in such a manner that all openings between the chlorine room and the remainder of the plant are sealed, and provided with doors equipped with panic hardware, assuring ready means of exit and opening outward only to the building exterior. (3-30-07)

ii. Each room shall be provided with a shatter resistant inspection window installed in an interior wall. (3-30-07)

iii. Each room shall have a ventilating fan with a capacity which provides one (1) complete air change per minute when the room is occupied. Where this is not appropriate due to the size of the room, a lesser rate may be allowed by the Department on a site specific basis. (3-30-07)

iv. The ventilating fan shall take suction near the floor as far as practical from the door and air inlet, with the point of discharge so located as not to contaminate air inlets to any rooms or structures. Air inlets shall be through louvers near the ceiling. (3-30-07)

v. Louvers for chlorine room air intake and exhaust shall facilitate airtight closure. (3-30-07)

vi. Separate switches for the fan and lights shall be located outside of the chlorine room and at the inspection window. Outside switches shall be protected from vandalism. A signal light indicating fan operation shall be provided at each entrance when the fan can be controlled from more than one (1) point. (3-30-07)

vii. Vents from feeders and storage shall discharge to the outside atmosphere, above grade. (3-30-07)

viii. Where provided, floor drains shall discharge to the outside of the building and shall not be connected to other internal or external drainage systems. (3-30-07)

ix. Chlorinator rooms shall be heated to sixty degrees Fahrenheit (60°F) and be protected from excessive heat. Cylinders and gas lines shall be protected from temperatures above that of the feed equipment. (3-30-07)

x. Pressurized chlorine feed lines shall not carry chlorine gas beyond the chlorinator room. (3-30-07)

xi. Critical isolation valves shall be conspicuously marked and access kept unobstructed. (3-30-07)

xii. All chlorine rooms, buildings, and areas shall be posted with a prominent danger sign warning of the presence of chlorine. (3-30-07)

xiii. Full and empty cylinders of chlorine gas shall be isolated from operating areas and stored in definitely assigned places away from elevators, stairs, or gangways. They shall be restrained in position to prevent being knocked over or damaged by passing or falling objects. In addition, they shall be stored in rooms separate from ammonia storage, out of direct sunlight, and at least twenty (20) feet from highly combustible materials. Cylinders shall not be kept in unventilated enclosures such as lockers and cupboards. (3-30-07)

b. Where acids and caustics are used, they shall be kept in closed corrosion-resistant shipping containers or storage units. Acids and caustics shall not be handled in open vessels, but shall be pumped in undiluted

form from original containers through suitable hose to the point of treatment or to a covered day tank. (3-30-07)

c. Sodium chlorite for chlorine dioxide generation. Proposals for the storage and use of sodium chlorite shall be approved by the Department prior to the preparation of final plans and specifications. Provisions shall be made for proper storage and handling of sodium chlorite to eliminate any danger of fire or explosion associated with its oxidizing nature. (3-30-07)

i. Chlorite (sodium chlorite) shall be stored by itself in a separate room. It must be stored away from organic materials. The storage structure shall be constructed of noncombustible materials. If the storage structure must be located in an area where a fire may occur, water must be available to keep the sodium chlorite area cool enough to prevent heat-induced explosive decomposition of the chlorite. (3-30-07)

ii. Care shall be taken to prevent spillage. An emergency plan of operation shall be available for the clean up of any spillage. Storage drums shall be thoroughly flushed prior to recycling or disposal. (3-30-07)

d. Where ammonium hydroxide is used, an exhaust fan shall be installed to withdraw air from high points in the room and makeup air shall be allowed to enter at a low point. The feed pump, regulators, and lines shall be fitted with pressure relief vents discharging outside the building away from any air intake and with water purge lines leading back to the headspace of the bulk storage tank. (3-30-07)

e. Where anhydrous ammonia is used, the storage and feed systems (including heaters where required) shall be enclosed and separated from other work areas and constructed of corrosion resistant materials. (3-30-07)

i. Pressurized ammonia feed lines shall be restricted to the ammonia room. (3-30-07)

ii. An emergency air exhaust system, as described in Subsection 531.04.a., but with an elevated intake, shall be provided in the ammonia storage room. (3-30-07)

iii. Leak detection systems shall be fitted in all areas through which ammonia is piped. (3-30-07)

iv. Special vacuum breaker/regulator provisions must be made to avoid potentially violent results of backflow of water into cylinders or storage tanks. (3-30-07)

v. Consideration shall be given to the provision of an emergency gas scrubber capable of absorbing the entire contents of the largest ammonia storage unit whenever there is a risk to the public as a result of potential ammonia leaks. (3-30-07)

05. Operator Safety. The Idaho General Safety and Health Standards, referenced in Subsection 002.02, may be used as guidance in designing facilities to ensure the safety of operators. The following requirements are in addition to the requirements of Subsection 501.12. (3-30-07)

a. Respiratory protection equipment, meeting the requirements of the National Institute for Occupational Safety and Health (NIOSH) shall be available where chlorine gas is handled, and shall be stored at a convenient heated location, but not inside any room where chlorine is used or stored. The units shall use compressed air, have at least a thirty (30) minute capacity, and be compatible with or exactly the same as units used by the fire department responsible for the plant. (3-30-07)

b. Chlorine leak detection. A bottle of concentrated ammonium hydroxide (fifty-six (56) per cent ammonia solution) shall be available for chlorine leak detection. Where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. (3-30-07)

c. Protective equipment. (3-30-07)

i. At least one pair of rubber gloves, a dust respirator of a type certified by NIOSH for toxic dusts, an apron or other protective clothing, and goggles or face mask shall be provided for each operator. (3-30-07)

ii. A deluge shower and eyewashing device shall be installed where strong acids and alkalis are used or stored. A water holding tank that will allow water to come to room temperature shall be installed in the water line feeding the deluge shower and eyewashing device. Other methods of water tempering will be considered on an individual basis. (5-8-09)

iii. For chemicals other than strong acids and alkalis, an appropriate eye washing device or station shall be provided. (5-8-09)

iv. Other protective equipment shall be provided as necessary. (3-30-07)

06. Design Requirements for Specific Applications. In addition to Subsection 531.01 through 531.03, the following design requirements apply for the specific applications within Subsection 531.06 of this rule. (5-8-09)

a. Sodium chlorite for chlorine dioxide generation. Positive displacement feeders shall be provided. Tubing for conveying sodium chlorite or chlorine dioxide solutions shall be Type 1 PVC, polyethylene or materials recommended by the manufacturer. Chemical feeders may be installed in chlorine rooms if sufficient space is provided. Otherwise, facilities meeting the requirements of chlorine rooms shall be provided. Feed lines shall be installed in a manner to prevent formation of gas pockets and shall terminate at a point of positive pressure. Check valves shall be provided to prevent the backflow of chlorine into the sodium chlorite line. (3-30-07)

b. Hypochlorite facilities shall meet the following requirements: (5-8-09)

i. Hypochlorite shall be stored in the original shipping containers or in hypochlorite compatible containers. Storage containers or tanks shall be sited out of the sunlight in a cool and ventilated area. (5-8-09)

ii. Stored hypochlorite shall be pumped undiluted to the point of addition. Where dilution is unavoidable, deionized or softened water shall be used. (3-30-07)

iii. Storage areas, tanks, and pipe work shall be designed to avoid the possibility of uncontrolled discharges and a sufficient amount of appropriately selected spill absorbent shall be stored on-site. (3-30-07)

iv. Hypochlorite feeders shall be positive displacement pumps with compatible materials for wetted surfaces. (5-8-09)

v. To avoid air locking in smaller installations, small diameter suction lines shall be used with foot valves and degassing pump heads. In larger installations flooded suction shall be used with pipe work arranged to ease escape of gas bubbles. Calibration tubes or mass flow monitors which allow for direct physical checking of actual feed rates shall be fitted. (3-30-07)

vi. Injectors shall be made removable for regular cleaning where hard water is to be treated. (3-30-07)

c. When ammonium sulfate is used, the tank and dosing equipment contact surfaces shall be made of corrosion resistant non-metallic materials. Provision shall be made for removal of the agitator after dissolving the solid. The tank shall be fitted with a lid and vented outdoors. Injection of the solution should take place in the center of treated water flow at a location where there is high velocity movement. (3-30-07)

d. When aqua ammonia (ammonium hydroxide) is used, the feed pumps and storage shall be enclosed and separated from other operating areas. The aqua ammonia room shall be equipped as required for chlorinator rooms with the following changes: (3-30-07)

i. A corrosion resistant, closed, unpressurized tank shall be used for bulk storage, vented through an inert liquid trap to a high point outside and an incompatible connector, or lockout provisions shall be made to prevent accidental addition of other chemicals to the storage tank. (3-30-07)

ii. The storage tank shall be designed to avoid conditions where temperature increases cause the ammonia vapor pressure over the aqua ammonia to exceed atmospheric pressure. This capability can be provided by

cooling/refrigeration or diluting or mixing the contents with water without opening the system. (5-8-09)

iii. The aqua ammonia shall be conveyed direct from storage to the treated water stream injector without the use of a carrier water stream unless the carrier stream is softened. (3-30-07)

iv. The point of delivery to the main water stream shall be placed in a region of turbulent water flow. (3-30-07)

v. Provisions shall be made for easy access for removal of calcium scale deposits from the injector. (3-30-07)

532. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR SOFTENING.

The softening process selected must be based upon the mineral qualities of the raw water and the desired finished water quality in conjunction with requirements for disposal of sludge or brine waste, cost of plant, cost of chemicals and plant location. Applicability of the process chosen shall be demonstrated. (3-30-07)

01. Lime or Lime-Soda Process. Rapid mix, flocculation, and sedimentation processes shall meet the requirements of Section 520. In addition the following requirements must be met: (3-30-07)

a. When split treatment is used, an accurate means of measuring and splitting the flow must be provided. (3-30-07)

b. Rapid mix basins must provide not more than thirty (30) seconds detention time with adequate velocity gradients to keep the lime particles dispersed. (3-30-07)

c. Equipment for stabilization of water softened by the lime or lime-soda process is required, see Section 537. (3-30-07)

d. Mechanical sludge removal equipment shall be provided in the sedimentation basin. (3-30-07)

e. Provisions must be included for proper disposal of softening sludges; see Section 540. (3-30-07)

f. The plant processes must be manually started following shut-down. (3-30-07)

02. Cation Exchange Process. (3-30-07)

a. Pre-treatment is required when the content of iron, manganese, or a combination of the two, is one milligram per liter (1 mg/l) or more. (3-30-07)

b. The units may be of pressure or gravity type, of either an upflow or downflow design. Automatic regeneration based on volume of water softened shall be used unless manual regeneration is justified and is approved by the Department. A manual override shall be provided on all automatic controls. (3-30-07)

c. Rate-of-flow controllers or the equivalent shall be used to control the hydraulic loading of cation exchange units. (3-30-07)

d. The bottoms, strainer systems and support for the exchange resin shall conform to the criteria provided for rapid rate gravity filters in Section 521. (3-30-07)

e. Cross Connection Control. Backwash, rinse and air relief discharge pipes shall be installed in such a manner as to prevent any possibility of back-siphonage. (3-30-07)

f. A bypass must be provided around softening units to produce a blended water of desirable hardness. Totalizing meters must be installed on the bypass line and on each softener unit. The bypass line must have a shutoff valve. (3-30-07)

g. When the applied water contains a chlorine residual, the cation exchange resin shall be a type that

is not damaged by residual chlorine. (3-30-07)

h. Smooth-nose sampling taps must be provided for the collection of representative samples. The taps shall be located to provide for sampling of the softener influent, effluent, blended water, and on the brine tank discharge piping. The sampling taps for the blended water shall be at least twenty (20) feet downstream from the point of blending. Petcocks are not acceptable as sampling taps. (3-30-07)

i. Brine and salt storage tanks shall meet the following requirements: (3-30-07)

i. Salt dissolving or brine tanks and wet salt storage tanks must be covered and must be corrosion-resistant. (3-30-07)

ii. The make-up water inlet must be protected from back-siphonage. (3-30-07)

iii. Wet salt storage basins must be equipped with manholes or hatchways for access and for direct dumping of salt from truck or railcar. Openings must be provided with raised curbs and watertight covers having overlapping edges similar to those required for finished water reservoirs. (3-30-07)

iv. Overflows, where provided, must be protected with ~~corrosion resistant~~ twenty-four (24) mesh or similar non-corrodible screens, and must terminate with either a turned down bend having a proper free fall discharge or a self-closing flap valve. ~~(3-30-07)(_____)~~

v. The salt shall be supported on graduated layers of gravel placed over a brine collection system. (3-30-07)

vi. Alternative designs which are conducive to frequent cleaning of the wet salt storage tank may be considered. (3-30-07)

vii. An eductor may be used to transfer brine from the brine tank to the softeners. If a pump is used, a brine measuring tank or means of metering shall be provided to obtain the proper dilution. (3-30-07)

j. Suitable disposal must be provided for brine waste; see Section 540. Where the volume of spent brine must be reduced, consideration may be given to using a part of the spent liquid concentrate for a subsequent regeneration. (3-30-07)

k. Pipes and contact materials must be resistant to the aggressiveness of salt. Plastic and red brass are acceptable piping materials. Steel and concrete must be coated with a non-leaching protective coating which is compatible with salt and brine. (3-30-07)

l. Bagged salt and dry bulk salt storage shall be enclosed and separated from other operating areas in order to prevent damage to equipment. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

534. FACILITY AND DESIGN STANDARDS: AERATION PROCESSES.

Public water systems that install aeration treatment are subject to the Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." The system owner or the design engineer shall contact one of the Department's regional offices for information on obtaining a permit or an exemption for the emissions resulting from the aeration process. General information may be found at http://www.deq.idaho.gov/air/prog_issues/toxics/overview.cfm#tap. (3-30-07)

01. Natural Draft Aeration. Design shall provide: (3-30-07)

a. Perforations in the distribution pan three sixteenths to one-half (3/16 – 1/2) inches in diameter,

- spaced one to three (1–3) inches on centers to maintain a six (6) inch water depth. (3-30-07)
- b.** For distribution of water uniformly over the top tray. (3-30-07)
 - c.** Discharge through a series of three (3) or more trays with separation of trays not less than twelve (12) inches. (3-30-07)
 - d.** Loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. (3-30-07)
 - e.** Trays with slotted, heavy wire (1/2 inch openings) mesh or perforated bottoms. (3-30-07)
 - f.** Construction of durable material resistant to aggressiveness of the water and dissolved gases. (3-30-07)
 - g.** Protection from insects by twenty-four (24) mesh or similar non-corrodible screen. ~~(3-30-07)~~(____)
- 02. Forced or Induced Draft Aeration.** Devices shall be designed to: (3-30-07)
- a.** Include a blower with a weatherproof motor in a tight housing and screened enclosure. (3-30-07)
 - b.** Ensure adequate counter current of air through the enclosed aerator column. (3-30-07)
 - c.** Exhaust air directly to the outside atmosphere. (3-30-07)
 - d.** Include a down-turned and twenty-four (24) mesh or similar non-corrodible screened air outlet and inlet. ~~(3-30-07)~~(____)
 - e.** Be such that air introduced in the column shall be as free from obnoxious fumes, dust, and dirt as possible. (3-30-07)
 - f.** Be such that sections of the aerator can be easily reached or removed for maintenance of the interior or installed in a separate aerator room. (3-30-07)
 - g.** Provide loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. (3-30-07)
 - h.** Ensure that the water outlet is adequately sealed to prevent unwarranted loss of air. (3-30-07)
 - i.** Discharge through a series of five (5) or more trays with separation of trays not less than six (6) inches or as approved by the Department. (3-30-07)
 - j.** Provide distribution of water uniformly over the top tray. (3-30-07)
 - k.** Be of durable material resistant to the aggressiveness of the water and dissolved gases. (3-30-07)
- 03. Spray Aeration.** Design shall provide: (3-30-07)
- a.** A hydraulic head of between five (5) and twenty-five (25) feet. (3-30-07)
 - b.** Nozzles, with the size, number, and spacing of the nozzles being dependent on the flowrate, space, and the amount of head available. (3-30-07)
 - c.** Nozzle diameters in the range of one (1) to one and one-half (1.5) inches to minimize clogging. (3-30-07)
 - d.** An enclosed basin to contain the spray. Any openings for ventilation must be protected with a

twenty-four (24) mesh or similar non-corrodible screen. ~~(3-30-07)~~()

04. Pressure Aeration. Pressure aeration may be used for oxidation purposes only if the pilot plant study indicates the method is applicable; it is not acceptable for removal of dissolved gases. Filters following pressure aeration must have adequate exhaust devices for release of air. Pressure aeration devices shall be designed to give thorough mixing of compressed air with water being treated and provide twenty-four (24) mesh or similar non-corrodible screened and filtered air, free of obnoxious fumes, dust, dirt and other contaminants. ~~(3-30-07)~~()

05. Packed Tower Aeration. Packed tower aeration may be used for the removal of volatile organic chemicals, trihalomethanes, carbon dioxide, and radon. Final design shall be based on the results of pilot studies and be approved by the Department. (3-30-07)

a. Process design criteria. (3-30-07)

i. Justification for the design parameters selected (i.e., height and diameter of unit, air to water ratio, packing depth, surface loading rate, etc.) shall be provided to the Department for review. The pilot study shall evaluate a variety of loading rates and air to water ratios at the peak contaminant concentration. Special consideration shall be given to removal efficiencies when multiple contaminations occur. Where there is considerable past performance data on the contaminant to be treated and there is a concentration level similar to previous projects, the Department may approve the process design based on use of appropriate calculations without pilot testing. (3-30-07)

ii. The tower shall be designed to reduce contaminants to below the maximum contaminant level and to the lowest practical level. (3-30-07)

iii. The type and size of the packing used in the full scale unit shall be the same as that used in the pilot study. (3-30-07)

iv. The maximum air to water ratio for which credit will be given is 80:1. (3-30-07)

v. The design shall consider potential fouling problems from calcium carbonate and iron precipitation and from bacterial growth. It may be necessary to provide pretreatment. Disinfection capability shall be provided prior to and after packed tower aeration. (3-30-07)

vi. The effects of temperature shall be considered. (3-30-07)

vii. Redundant packed tower aeration capacity at the design flowrate shall be provided. (3-30-07)

b. The tower may be constructed of stainless steel, concrete, aluminum, fiberglass or plastic. Uncoated carbon steel is not allowed. Towers constructed of light-weight materials shall be provided with adequate support to prevent damage from wind. Packing materials shall be resistant to the aggressiveness of the water, dissolved gases and cleaning materials and shall be suitable for contact with potable water. (3-30-07)

c. Water flow system. (3-30-07)

i. Water shall be distributed uniformly at the top of the tower using spray nozzles or orifice-type distributor trays that prevent short circuiting. (3-30-07)

ii. A mist eliminator shall be provided above the water distributor system. (3-30-07)

iii. A side wiper redistribution ring shall be provided at least every ten (10) feet in order to prevent water channeling along the tower wall and short circuiting. (3-30-07)

iv. Sample taps shall be provided in the influent and effluent piping. The sample taps shall satisfy the requirements of Subsection 501.09. (5-8-09)

v. The effluent sump, if provided, shall have easy access for cleaning purposes and be equipped with a drain valve. The drain shall not be connected directly to any storm or sanitary sewer. (3-30-07)

- vi. The design shall prevent freezing of the influent riser and effluent piping when the unit is not operating. (3-30-07)
- vii. The water flow to each tower shall be metered. (3-30-07)
- viii. An overflow line shall be provided which discharges twelve (12) to fourteen (14) inches above a splash pad or drainage inlet. Proper drainage shall be provided to prevent flooding of the area. (3-30-07)
- ix. Means shall be provided to prevent flooding of the air blower. (3-30-07)
- d.** Air flow system. (3-30-07)
 - i. The air inlet to the blower and the tower discharge vent shall be down-turned and protected with a non-corrodible twenty-four (24) mesh screen to prevent contamination from extraneous matter. (3-30-07)
 - ii. The air inlet shall be in a protected location. (3-30-07)
 - iii. An air flow meter shall be provided on the influent air line or an alternative method to determine the air flow shall be provided. (3-30-07)
 - iv. A positive air flow sensing device and a pressure gauge must be installed on the air influent line. The positive air flow sensing device must be a part of an automatic control system which will turn off the influent water if positive air flow is not detected. The pressure gauge will serve as an indicator of fouling buildup. (3-30-07)
 - v. A backup motor for the air blower must be readily available. (3-30-07)
- e.** Other features that shall be provided: (3-30-07)
 - i. A sufficient number of access ports with a minimum diameter of twenty-four (24) inches to facilitate inspection, media replacement, media cleaning and maintenance of the interior. (3-30-07)
 - ii. A method of cleaning the packing material when iron, manganese, or calcium carbonate fouling may occur. (3-30-07)
 - iii. Tower effluent collection and pumping wells constructed to clearwell standards. (3-30-07)
 - iv. Provisions for extending the tower height without major reconstruction. (3-30-07)
 - v. No bypass shall be provided unless specifically approved by the Department. (3-30-07)
 - vi. Disinfection and adequate contact time after the water has passed through the tower and prior to the distribution system. (3-30-07)
 - vii. Adequate packing support to allow free flow of water and to prevent deformation with deep packing heights. (3-30-07)
 - viii. Operation of the blower and disinfectant feeder equipment during power failures. (3-30-07)
 - ix. Adequate foundation to support the tower and lateral support to prevent overturning due to wind loading. (3-30-07)
 - x. Fencing and locking gate to prevent vandalism. (3-30-07)
 - xi. An access ladder with safety cage for inspection of the aerator including the exhaust port and demister. (3-30-07)

- xii. Electrical interconnection between blower, disinfectant feeder and supply pump. (3-30-07)

06. Other Methods of Aeration. Other methods of aeration may be used if applicable to the treatment needs. Such methods include but are not restricted to spraying, diffused air, cascades and mechanical aeration. The treatment processes are subject to the approval of the Department. (3-30-07)

07. Protection of Aerators. All aerators except those discharging to lime softening or clarification plants shall be protected from contamination by birds, insects, wind borne debris, rainfall and water draining off the exterior of the aerator. (3-30-07)

08. Disinfection. Ground water supplies exposed to the atmosphere by aeration must receive disinfection as the minimum additional treatment. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

541. FACILITY AND DESIGN STANDARDS - PUMPING FACILITIES.

Pumping facilities shall be designed to maintain the sanitary quality of pumped water. (3-30-07)

01. Pump Houses. The following requirements apply to pump houses as defined in Section 003 unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: (3-30-07)

a. Pump houses shall be readily accessible for operation, maintenance, and repair at all times and under all weather conditions unless permitted to be out of service for a period of inaccessibility. (3-30-07)

b. Pump houses shall be protected from flooding and shall be adequately drained. The ground surface shall be graded so as to lead surface drainage away from the pump house. The floor surface shall be at least six (6) inches above the final ground surface. (3-30-07)

c. Pump houses shall be of durable construction, fire and weather resistant, and with outward-opening doors. All underground structures shall be waterproofed. (3-30-07)

d. Provisions shall be made for adequate heating for the comfort of the operator and the safe and efficient operation of the equipment. In pump houses not occupied by personnel, only enough heat need be provided to prevent freezing of equipment or treatment processes. (3-30-07)

e. Ventilation shall conform to existing local and/or state codes. Adequate ventilation shall be provided for all pumping stations for operator comfort and dissipation of excess heat and moisture from the equipment. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (3-30-07)

f. Pump houses shall be provided with a locking door or access to prohibit unauthorized entrance and shall be protected to prevent vandalism and entrance by animals. Plans and specifications for pump houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (3-30-07)

g. Pump houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials other than those materials required for treatment processes. (3-30-07)

h. A suitable outlet shall be provided for drainage from pump glands without discharging onto the floor. (3-30-07)

i. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. Sumps for pump house floor drains shall not be closer than thirty (30) feet from any well.

(3-30-07)

j. Adequate space shall be provided for the installation of potential additional units and for the safe and efficient servicing of all equipment. (5-8-09)

k. Suction basins shall be watertight, have floors sloped to permit removal of water and settled solids, be covered or otherwise protected against contamination, and have two (2) pumping compartments or other means to allow the suction basin to be taken out of service for inspection maintenance or repair. (3-30-07)

l. Pump houses shall be designed to allow efficient equipment servicing. Crain-ways, hoist beams, eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment shall be provided. Openings in floors, roofs or wherever else shall be provided as needed for removal of heavy or bulky equipment. (3-30-07)

m. All remote controlled stations shall be electrically operated and controlled and shall have signaling apparatus of proven performance. Signaling apparatus shall report automatically when the station is out of service. (3-30-07)

n. Any threaded hose bib installed in the pump house must be equipped with an appropriate backflow prevention device. (3-30-07)

02. Pumping Units. At least two (2) pumping units shall be provided for raw water and surface source pumps. Pumps using seals containing mercury shall not be used in public drinking water system facilities. With any pump out of service, the remaining pump or pumps shall be capable of providing the peak hour demand of the system or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design requirements concerning fire flow capacity and Subsection 501.07 regarding reliability and emergency operation. The pumping units shall meet the following requirements: (5-8-09)

a. The pumps shall have ample capacity to supply the maximum demand against the required pressure without dangerous overloading. (3-30-07)

b. The pumps shall be driven by prime movers able to meet the maximum horsepower condition of the pumps. (3-30-07)

c. The pumps shall be provided with readily available spare parts and tools. (3-30-07)

d. The pumps shall be served by control equipment that has proper heater and overload protection for air temperature encountered. (3-30-07)

e. Suction lift shall be avoided if possible. When suction lift is used, it shall be within the limits allowed by the manufacturer of the pumps, and provision shall be made for priming the pumps. (3-30-07)

f. Prime water must not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent either backpressure or backsiphonage backflow. When an air-operated ejector is used, the twenty-four (24) mesh or similar non-corrodible screened intake shall draw clean air from a point at least ten (10) feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the reviewing authority. Vacuum priming may be used. (~~3-30-07~~)(____)

03. Appurtenances. The following appurtenances shall be provided for all water pumps ~~with the exception of well pumps.~~ The Additional requirements for specific to well pumps are provided in Section 511. (~~3-30-07~~)(____)

a. Pumps shall be ~~adequately~~ protected against freezing and valved to permit satisfactory operation, maintenance, and repair of the equipment. If foot valves are necessary, they shall have a net valve area of at least two and one-half (2.5) times the area of the suction pipe and they shall be twenty-four (24) mesh or similar non-corrodible screened. Each pump shall have an accessible check valve on the discharge side between the pump and the shut-off valve or a combination valve that performs both control valve and check valve functions. Surge relief measures shall

be designed to minimize hydraulic transients.

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

b. In general, piping shall be designed so that it will have watertight joints, be protected against surge or water hammer, be provided with suitable restraints where necessary, be designed so that friction losses will be minimized, and not be subject to contamination. Each pump shall have an individual suction line or the suction lines shall be manifolded such that they will ensure similar hydraulic and operating conditions. (3-30-07)

c. Each pump station shall have a standard pressure gauge on its discharge line and suction line. (3-30-07)

d. Water seals shall not be supplied with water of a lesser sanitary quality than that of the water being pumped. Where pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall: (3-30-07)

i. Be provided with either an approved reduced pressure principle backflow preventer or a break tank open to atmospheric pressure, (3-30-07)

ii. Where a break tank is provided, have an air gap of at least six (6) inches or two (2) pipe diameters, whichever is greater, between the feeder line and the flood rim of the tank. (3-30-07)

e. Pumps, their prime movers, and accessories shall be controlled in such a manner that they will operate at rated capacity without dangerous overload. Where two (2) or more pumps are installed, provision shall be made for alternation. Provision shall be made to prevent energizing the motor in the event of a backspin cycle. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation. (3-30-07)

04. Booster Pumps. In addition to other applicable requirements in Section 541, booster pumps must comply with the following: (3-30-07)

a. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (3-30-07)

b. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. (3-30-07)

c. Each booster pumping station shall contain not less than two (2) pumps with capacities such that peak hour demand, or a minimum of the maximum day demand plus equalization storage, can be satisfied with any pump out of service. See Subsection 501.18 for general design requirements concerning fire flow capacity. (5-8-09)

542. FACILITY AND DESIGN STANDARDS - DISTRIBUTION SYSTEM.

01. Protection from Contamination. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (3-30-07)

02. Installation of Water Mains. Division 400 of "Idaho Standards for Public Works Construction," referenced in Subsection 002.02, may be used as guidance for installation of water mains. In addition, the following provisions shall apply: (3-30-07)

a. Installed pipe shall be pressure tested and leakage tested in accordance with the applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. (3-30-07)

b. New, cleaned, and repaired water mains shall be disinfected in accordance with AWWA Standard C651, incorporated by reference into these rules at Subsection 002.01. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. (3-30-07)

c. In areas where aggressive soil conditions are suspected or known to exist, analyses shall be performed to determine the actual aggressiveness of the soil. If soils are found to be aggressive, action shall be taken to protect metallic joint restraints and the water main, such as encasement in polyethylene, provision of cathodic protection, or use of corrosion resistant materials. (3-30-07)

d. The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two systems. (3-30-07)

e. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench shall be removed for a depth of at least six (6) inches below the bottom of the pipe. (3-30-07)

f. Water mains shall be covered with sufficient earth or other insulation to prevent freezing. (3-30-07)

g. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement. (3-30-07)

03. Pressure Relief Valves. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (3-30-07)

04. Flow Meter Required. Unless otherwise approved by the Department, All source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter, equipped with nonvolatile memory, installed in accordance with manufacture's specifications, ~~unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped.~~ (3-30-07)(____)

05. Pipe and Jointing Materials. Pipe and jointing materials comply with the standards set forth in Subsection 501.01. Pipe shall be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the system. Where distribution systems are installed in areas of ground water contaminated by organic compounds: (3-30-07)

a. Pipe and joint materials which do not allow permeation of the organic compounds shall be used; and (4-11-06)

b. Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections. (4-11-06)

06. Size of Water Mains. When fire hydrants are provided, they shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (3-30-07)

07. Separation of Potable and Non-Potable Pipelines. The relation between potable and non-potable pipelines shall be as described in Subsections 542.07.a. through 542.07.c. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. and 542.07.b. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority. (5-8-09)

a. Parallel installation requirements. (5-8-09)

i. Potable mains in relation to non-potable mains. (5-8-09)

(1) Greater than ten (10) feet separation: no additional requirements based on separation distance. (5-8-09)

(2) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main constructed with potable water class pipe. (5-8-09)

(3) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment and non-potable main to be constructed of potable water class pipe. (4-11-06)

(4) Non-potable mains are prohibited from being located in the same trench as potable mains. (3-30-07)

(5) Pressure ~~sewage~~ wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer horizontally than ten (10) feet from potable mains. (~~3-30-07~~)()

ii. New potable services in relation to non-potable services, new potable services in relation to non-potable mains, and new non-potable services in relation to potable mains. (5-8-09)

(1) Greater than six (6) feet separation: no additional requirements based on separation distance. (5-8-09)

(2) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (5-8-09)

(3) New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. (5-8-09)

b. Requirements for potable water mains or services crossing non-potable water mains or services. For the purposes of this section, the term "pipeline" applies to both mains and services. (5-8-09)

i. If there is eighteen (18) inches or more vertical separation with the potable water pipeline above the non-potable pipeline, then the ~~non~~-potable pipeline joints must be as far as possible from the non-potable water pipeline. (~~5-8-09~~)()

ii. If there is eighteen (18) inches or more vertical separation with the potable water pipeline below the non-potable pipeline, then the potable pipeline joints must be as far as possible from the non-potable pipeline, and the non-potable pipeline must be supported through the crossing to prevent settling. (~~5-8-09~~)()

iii. Less than eighteen (18) inches vertical separation: (5-8-09)

(1) Potable pipeline joint to be as far as possible from the non-potable pipeline; and either: (5-8-09)

(a) Non-potable pipeline constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or (5-8-09)

(b) Sleeve non-potable or potable pipeline with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. (5-8-09)

(2) If potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling. (5-8-09)

iv. Pressure ~~sewage~~ wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer vertically than eighteen (18) inches from potable mains. (~~5-8-09~~)()

c. Existing potable services in relation to new non-potable mains, existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 542.07.b., where practical, based on cost, construction factors, and public health

significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 542.07.b. (5-8-09)

08. Separation from Subsurface Wastewater Systems and Other Sources of Contamination. A minimum horizontal distance of twenty-five (25) feet shall be maintained between any potable water pipe and a septic tank or subsurface wastewater disposal system. Guidance on separation from other potential sources of contamination, such as stormwater facilities, may be found at www.deq.idaho.gov/water/assist_business/engineers/checklists/guidance_separation_distances.pdf. (3-30-07)

09. Dead End Mains. All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of two and one-half (2.5) feet per second. (3-30-07)

a. Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. (4-11-06)

b. No water main flushing device shall be directly connected to any sewer. (4-11-06)

c. Stub outs for future main connections shall meet all requirements for dead end mains listed in Subsection 542.09 as determined by the Department. Flushing devices may be temporary in nature. ()

10. Repair of Leaks. Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01. (3-30-07)

11. Separation from Structures. Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (3-30-07)

12. Meter Vault Required. All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. This requirement shall also apply to extensions of the distribution system of existing public water systems. (3-30-07)

13. Minimum Pressure at Building Sites. Any public water system constructed or undergoing material modification where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and 552.01.b.ii., plus a static compensation from the elevation of the main to the elevation of each building site. (5-8-09)

a. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)

b. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)

14. Isolation Valves. A sufficient number of valves shall be provided on water mains to minimize inconvenience and sanitary hazards during repairs. (3-30-07)

15. Air Valves. At high points in water mains where air can accumulate, provisions shall be made to remove the air by means of air release and vacuum relief valves or combination air release/vacuum relief valves. Air release valves, vacuum relief valves, or combination air release/vacuum relief valves may not be required if vacuum relief and air release functions in the pipeline can be adequately handled by approved appurtenances such as fire hydrants. (5-8-09)

a. The open end of an air valve shall be extended to at least one (1) foot above grade and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. When the air vent on an

air relief valve cannot be practically installed above ground, the vent may be below grade provided that the valve is manually operated and the air vent is extended to the top of the valve vault and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. In addition, for below ground vents, the valve vault must be rated for appropriate traffic loading in traffic areas and the vault drained to daylight or provided with adequate drainage to prevent flooding of the vault. (5-8-09)(____)

b. Discharge piping from air ~~relief~~ valves or combination air release/vacuum relief valves shall not connect directly to any storm drain, storm sewer, or sanitary sewer. (5-8-09)(____)

16. **Backflow Protection.** Automatic air relief valves shall be equipped with a means of backflow protection. (3-30-07)

17. **Surface Water Crossings.** For the purposes of Subsection 542.17, surface water is defined as all surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. Surface water crossings, whether over or under water, shall be constructed as follows: (5-8-09)

a. Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. (4-11-06)

b. Under water crossings: A minimum cover of two (2) feet shall be provided over the pipe. When crossing a water course that is greater than fifteen (15) feet in width, the following shall be provided: (4-11-06)

i. The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints; and (4-11-06)

ii. Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible and not subject to flooding; and (4-11-06)

iii. Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples shall be made on each side of the valve closest to the supply source. (4-11-06)

543. FACILITY AND DESIGN STANDARDS - CROSS CONNECTION CONTROL.

There shall be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premises isolation or containment, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. (5-8-09)(____)

01. **Testable Assemblies.** All double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, spill resistant vacuum breakers, and pressure vacuum breakers used must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC Foundation) and be included on the USC Foundation "List of Approved Assemblies." ~~In addition all double check valve backflow prevention assemblies and reduced pressure principle backflow prevention assemblies used shall meet American Water Works Association (AWWA) Standards C 510 or C 511, incorporated by reference into these rules at Subsection 002.01, or an equivalent standard approved by the Department.~~ (5-8-09)(____)

02. **Atmospheric Vacuum Breakers.** All atmospheric vacuum breakers used shall be marked approved either by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (5-8-09)

03. ~~Resilient Seated Shutoff Valves~~ **Replacement Parts and Components.** All replacement parts and components, including resilient seated shutoff valves, shall meet original specifications or otherwise be approved by the USC Foundation as replacement parts or components for use ~~when~~ on double check valve backflow prevention

assemblies, reduced pressure principle backflow prevention assemblies, and pressure vacuum breakers ~~are installed.~~
(3-30-07)()

04. Assembly Selection. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water ~~must~~ should be selected ~~either~~ from the Pacific Northwest Cross Connection Control Manual, the Uniform Plumbing Code, the ~~Environmental Protection Agency's~~ AWWA Recommended Practice for Backflow Prevention and Cross Connection Control Manual (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The selected assembly manufacturer model number must be included on the USC Foundation "List of Approved Assemblies" and must comply with local ordinances. (5-8-09)()

544. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN OF FINISHED WATER STORAGE. The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water. Finished water storage structures shall be designed to maintain water circulation and prevent water stagnation. Steel structures and facilities such as steel tanks, standpipes, reservoirs, and elevated tanks shall be designed and constructed in accordance with applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. (5-8-09)

01. Sizing. Storage facilities shall have sufficient capacity, as determined from engineering studies that consider peak flows, fire flow capacity, and analysis of the need for various components of finished storage as defined under the term "Components of Finished Water Storage" in Section 003. The requirement for storage may be reduced when the source and treatment facilities have sufficient capacity with standby power to supply peak demands of the system. (3-30-07)

02. Location. Storage facilities shall be located in a manner that protects against contamination, ensures structural stability, protects against flooding, and provides year-round access by vehicles and equipment needed for repair and maintenance. (5-8-09)

a. If the bottom elevation of a storage reservoir must be below normal ground surface, it shall be placed above the seasonal high ground water table. (3-30-07)

b. Non-potable mains and services, standing water, and similar sources of possible contamination must be kept at least fifty (50) feet from any partially buried or below-ground storage structure or facility, except that non-potable mains and services constructed of potable water class pipe are allowed as close as twenty (20) feet from a partially buried or below-ground storage structure or facility. Partially buried or below-ground storage structures or facilities shall be located a minimum of fifty (50) feet from the nearest property line. (5-8-09)

c. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (3-30-07)

d. The top of a partially buried storage structure shall not be less than two (2) feet above normal ground surface. (3-30-07)

e. Ground-level or above-ground storage structures or facilities shall be located a minimum of twenty (20) feet from the nearest property line and a minimum of twenty (20) feet from any potential source of contamination. (5-8-09)

03. Protection from Contamination. All finished water storage structures shall have suitable watertight roofs which exclude birds, animals, insects, and excessive dust. The installation of appurtenances, such as antennas, shall be done in a manner that ensures no damage to the tank, coatings or water quality, or corrects any damage that occurred. (3-30-07)

04. Protection from Trespassers. Fencing, locks on access manholes, and other necessary precautions shall be provided to prevent trespassing, vandalism, and sabotage. (3-30-07)

05. Drains. No drain on a water storage structure may have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system. (3-30-07)

06. Overflow. Overflow pipes of any storage structure or facility shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal twenty-four (24) mesh or similar non-corrodible screen installed within the pipe that will exclude rodents and deter vandalism. The overflow pipe shall be of sufficient diameter to permit waste of water in excess of the filling rate. The overflow shall discharge over a drainage inlet structure or a splash plate and, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface. (~~5-8-09~~)()

a. When an internal overflow pipe is used on above-ground tanks, it shall be located in the access tube. (5-8-09)

b. The overflow for ground-level, partially buried, or below-ground storage structures or facilities shall have a vertical section of pipe at least two (2) pipe diameters in length and either: (5-8-09)

i. Be screened with a twenty-four (24) mesh noncorrodible screen installed within the pipe when practical or an expanded metal screen installed within the pipe plus a weighted flapper valve or check; or (5-8-09)

ii. Be an equivalent system acceptable to the Department. (5-8-09)

07. Access. Finished water storage structures shall be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes shall be provided above the waterline at each water compartment where space permits, as determined by the Department. One (1) manhole may be allowed on smaller tanks on a case-by-case basis. (~~3-30-07~~)()

a. The following access requirements apply to above-ground and ground-level storage structures. Each access manhole shall be framed a minimum of four (4) inches above the surface of the roof at the opening. The actual height above the surface of the roof must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (5-8-09)

b. The following access requirements apply to, partially buried or below-ground storage structures. Each access manhole shall be elevated a minimum of twenty-four (24) inches above the surface of the roof or the ground level, whichever is higher. The actual height above the surface of the roof or the ground level must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (5-8-09)

c. Each manhole shall be fitted with a solid water tight cover which overlaps a framed opening and extends down around the frame at least two (2) inches or otherwise prevents the entrance of contaminants. The frame ~~shall~~ should be at least four (4) inches high. Each cover shall be hinged on one side, and shall have a locking device. (~~3-30-07~~)()

08. Vents. Finished water storage structures shall be vented. The overflow pipe shall not be considered a vent. Open construction between the sidewall and roof is not permissible. Vents shall: (3-30-07)

a. Prevent the entrance of surface water and rainwater and extend twelve (12) inches above the roof. (3-30-07)

b. Exclude birds and animals. (3-30-07)

c. Exclude insects and dust, as much as this function can be made compatible with effective venting. (3-30-07)

d. On ground-level, partially buried, or below-ground structures, open downward with the opening at least twenty-four (24) inches above the roof or the ground level and covered with twenty-four (24) mesh non-

corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism. (5-8-09)

e. On above-ground tanks and standpipes, open downward, and be fitted with twenty-four (24) mesh or similar non-corrodible screen. (~~5-8-09~~)()

09. Roof and Sidewall. The roof and sidewalls of all water storage structures must be watertight with no openings except properly constructed vents, manholes, overflows, risers, drains, pump mountings, control ports, or piping for inflow and outflow. Particular attention shall be given to the sealing of roof structures which are not integral to the tank body. (3-30-07)

a. Any pipes running through the roof or sidewall of a metal storage structure must be welded, or properly gasketed. In concrete tanks, these pipes shall be connected to standard wall castings which were poured in place during the forming of the concrete. (3-30-07)

b. Openings in the roof of a storage structure designed to accommodate control apparatus or pump columns shall be curbed and sleeved with proper additional shielding to prevent contamination from surface or floor drainage. (3-30-07)

c. The roof of the storage structure shall be sloped to facilitate drainage. Downspout pipes shall not enter or pass through the reservoir. Parapets, or similar construction which would tend to hold water and snow on the roof, will not be approved unless adequate waterproofing and drainage are provided. (3-30-07)

d. Reservoirs with pre-cast concrete roof structures must be made watertight with the use of a waterproof membrane or similar product. (3-30-07)

10. Construction Materials. Materials used in storage facility construction shall meet the requirements for water contact surfaces set forth in Subsection 501.01. Porous materials such as wood or concrete block are not acceptable for use in storage construction. (3-30-07)

11. Protection from Freezing. Finished water storage structures and their appurtenances, especially the riser pipes, overflows, and vents, shall be designed to prevent freezing which will interfere with proper functioning. (3-30-07)

12. Internal Catwalk. Every catwalk over finished water in a storage structure shall have a solid floor with sealed raised edges, designed to prevent contamination from shoe scrapings and dirt. (3-30-07)

13. Silt Stops. Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (3-30-07)

14. Grading. The area surrounding a ground-level, partially buried, or below-ground structures shall be graded in a manner that will prevent surface water from standing within fifty (50) feet of it. (5-8-09)

15. Coatings and Cathodic Protection. Proper protection shall be given to metal surfaces by paints or other protective coatings, by cathodic protective devices, or by both. (3-30-07)

16. Disinfection. Storage facilities shall be disinfected in accordance with AWWA Standard C652, incorporated by reference into these rules at Subsection 002.01. Two (2) or more successive sets of samples, taken at twenty-four (24) hour intervals, shall indicate microbiologically satisfactory water before the facility is placed into operation. (3-30-07)

17. Abandonment. All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (3-30-07)

545. FACILITY AND DESIGN STANDARDS: TREATMENT PLANT STORAGE FACILITIES.
The design standards of Section 544 shall apply to treatment plant storage. (3-30-07)

01. Filter Wash Water. Filter wash water tanks shall be sized, in conjunction with available pump

units and finished water storage, to provide the backwash water required by Section 521. Consideration must be given to the backwashing of several filters in rapid succession. (3-30-07)

02. Clearwell. When finished water storage is used to provide disinfectant contact time special attention must be given to tank size and baffling. An overflow and vent shall be provided. A minimum of two (2) clearwell compartments shall be provided to allow for cleaning or maintenance. Clearwells constructed under filters may be exempt from the requirements set out in Subsection 544.02.d. when the design provides adequate protection from contamination. (~~3-30-07~~)(____)

03. Adjacent Storage. Finished or treated water must not be stored or conveyed in a compartment adjacent to untreated or partially treated water when the two (2) compartments are separated by a single wall, unless approved by the reviewing authority. (3-30-07)

04. Other Treatment Plant Storage Tanks. Unless otherwise allowed by the reviewing authority, other treatment plant storage tanks/basins such as detention basins, backwash reclaim tanks, receiving basins, and pump wet-wells for finished water shall be designed as finished water storage structures. In addition, these tanks/basins shall be designed to allow for cleaning or maintenance through temporary tanks, standby pumping capabilities, or other means approved by the Department. (~~3-30-07~~)(____)

546. FACILITY AND DESIGN STANDARDS: DISTRIBUTION SYSTEM STORAGE FACILITIES.

01. Design. The applicable design standards of Section 544 shall be followed for distribution system storage. (3-30-07)

02. Isolation. Finished water storage structures which provide pressure directly to the distribution system shall be designed so they can be isolated from the distribution system and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. This requirement may be met through available temporary tanks, redundant pumping capabilities, or other temporary means approved by the Department. If the finished water storage structure provides fire flow for the water system, the water system owner shall provide the local fire authority advance notification of cleaning or maintenance events which isolate the structure from the distribution system and reduce available fire flow to less than the minimum required by the local fire authority. (~~5-8-09~~)(____)

03. Drain. Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The drain shall, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface, and discharge over a drainage inlet structure or a splash plate. (5-8-09)

04. Level Controls. Adequate controls shall be provided to maintain levels in distribution system storage structures. Level indicating devices shall be provided at a central location. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

548. FACILITY AND DESIGN STANDARDS: DISINFECTION OF FACILITIES PRIOR TO USE.

Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system shall be flushed and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, prior to being placed into service. Disposal of chlorinated water from disinfection activities shall be coordinated with the DEQ Regional Office. (~~3-30-07~~)(____)

549. -- 551. (RESERVED).

552. FACILITY AND DESIGN STANDARDS: OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. Design requirements regarding pressure analysis are found in Section 542.13. (5-8-09)

a. Minimum Capacity. The capacity of a public drinking water system shall be at least eight hundred (800) gallons per day per residence. (5-8-09)

i. The minimum capacity of eight hundred (800) gallons per day shall be the design maximum day demand rate exclusive of irrigation and fire flow requirements. (5-8-09)

ii. The minimum capacity of eight hundred (800) gallons per day is only acceptable if the public drinking water system has equalization storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. (5-8-09)

iii. The design capacity of a public drinking water system for material modifications may be less than eight hundred (800) gallons per day per residence if the water system owner provides information that demonstrates to the Department's satisfaction the maximum day demand for the system, exclusive of irrigation and fire flows, is less than eight hundred (800) gallons per day per residence. (5-8-09)

b. Pressure. ~~If the Department receives a complaint from a customer or customers of a public drinking water system regarding inadequate or excessive pressure, the Department may, after initial investigation by the water system or the Department, require the public water system to conduct a local pressure monitoring study to diagnose and correct pressure problems.~~ All public water systems shall meet the following requirements: (3-30-07)()

i. Any public water system shall be capable of providing sufficient water during maximum day demand conditions, including fire flow where provided, to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. (3-30-07)()

ii. When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system. ()

iii. If an initial investigation by the water system fails to discover the causes of inadequate or excessive pressure, the Department may require a public drinking water system to conduct a local pressure monitoring study to diagnose and correct pressure problems. Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. ()

iv. Copies of pressure monitoring study reports required under Subsection 552.01.b.iii. detailing study results and any resulting corrective actions planned or performed by the public water system shall be submitted to the Department in accordance with these rules. ()

##v. The following public water systems or service areas of public water systems shall maintain a minimum pressure of forty (40) psi throughout the distribution system, during peak hour demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. (5-8-09)

(1) Any public water system constructed or substantially modified after July 1, 1985. (5-8-09)

(2) Any new service areas. (5-8-09)

(3) Any public water system that is undergoing material modification where it is feasible to meet the pressure requirements as part of the material modification. (5-8-09)

##vi. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred

(100) psi shall be controlled by pressure reducing devices installed in the distribution main. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. If system modification will cause pressure to routinely exceed eighty (80) psi, or if a check valve or an individual pressure reducing device is added to the service line, the water system owner shall notify affected customers. Notification may include reasons for the elevated pressure, problems or damage that elevated pressure can inflict on appliances or plumbing systems, and suggested procedures or mitigation efforts affected property owners may initiate to minimize problems or damage. (5-8-09)(____)

~~vii.~~ The Department may allow the installation of booster pump systems at individual service connections on a case by case basis. However, such an installation may only occur with the full knowledge and agreement of the public water system, including assurance by the water system that the individual booster pump will cause no adverse effects on system operation. (4-11-06)

~~v.~~ *When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system.* (5-3-03)

~~vi.~~ *Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department.* (5-8-09)

c. Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (5-3-03)

d. Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate. (5-3-03)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. (5-3-03)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. (5-3-03)

ii. The requirement of Subsection 552.01.d.i. may be modified by the Department if: (5-3-03)

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. (5-3-03)

iii. If a separate non-potable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as non-potable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (5-3-03)

02. Ground Water. (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by ground water, shall treat water within the system by disinfection if the ground water source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by ground water if the system consistently exceeds the MCL for coliform, and if the system does not appear

adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

- i. Location of possible sources of contamination; (12-10-92)
- ii. Size of the well lot; (12-10-92)
- iii. Depth of the source of water; (12-10-92)
- iv. Bacteriological quality of the aquifer; (12-10-92)
- v. Geological characteristics of the area; and (12-10-92)
- vi. Adequacy of development of the source. (12-10-92)

03. Operating Criteria. The operating criteria for systems supplied by surface water or ground water under the direct influence of surface water shall be as follows: (12-10-92)

a. Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation. (12-10-92)

b. The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes - Upper Mississippi River Board of Public Health and Environmental Managers as set forth in Subsection 002.02.c., or other equal standard designated by the Department. (4-6-05)

c. New treatment facilities shall be operated in accordance with Subsection 552.03.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (3-30-07)

04. Chlorination. Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Sections 300 and 518. (3-30-07)

a. Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: (4-6-05)

i. Chlorinator capacity shall be such that the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%) inactivation of viruses. The required contact time will be specified by the Department. This condition must be attainable even when the peak hour demand coincides with anticipated maximum chlorine demands. (5-8-09)

ii. A detectable chlorine residual shall be maintained throughout the distribution system. (4-6-05)

iii. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)

iv. Analysis for free chlorine residual shall be conducted at a location at or prior to the first service connection at least daily and records of these analyses shall be kept by the supplier of water for at least one (1) year. A report of all daily chlorine residual measurements for each calendar month shall be submitted to the Department no later than the tenth day of the following month. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (5-8-09)

v. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)

vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.04.a.i. (3-30-07)

vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided and equipped with both an audible alarm and a warning light. (5-8-09)

viii. The Department may require redundant chlorine pumping capabilities with automatic switchover for systems with documented source water contamination problems and that lack adequate storage to supply the system during a pump failure. (5-8-09)

b. Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements: (4-6-05)

i. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (4-6-05)

ii. Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.04.b.ii. also apply if the system maintains a chlorine residual in the distribution system. (3-30-07)

05. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, are acceptable. Use of other chemicals shall be specifically approved by the Department. (3-30-07)

b. Fluoride compounds shall be stored in covered or unopened shipping containers. (3-30-07)

c. Provisions shall be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels shall be disposed of in a manner that will minimize exposure to fluoride dusts. (3-30-07)

d. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

06. Cross Connection Control Program - Community Water Systems. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premises isolation, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. Pursuant to Section 543, all suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance to the system of materials known to be toxic or hazardous. The water purveyor is responsible to enforce the system's cross connection control program. The program will at a minimum include: (~~5-8-09~~)(_____)

a. An inspection program to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-8-09)

b. Required installation and operation of adequate backflow prevention assemblies. Appropriate and adequate backflow prevention assemblies ~~types~~ for various facilities, fixtures, equipment, and uses of water ~~must~~ should be selected from ~~either~~ the Pacific Northwest Cross Connection Control Manual, the Uniform Plumbing Code,

the ~~Environmental Protection Agency's~~ AWWA Recommended Practice for Backflow Prevention and Cross Connection Control Manual (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The assemblies must meet the requirements of Section 543 and comply with local ordinances. ~~(5-8-09)~~()

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing shall be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Foundation Manual of Cross-Connection Control referenced in Subsection 002.02. ~~(3-30-07)~~()

d. Discontinuance of service to any structure, facility, or premises where suitable backflow protection has not been provided for a cross connection. ~~(3-30-07)~~()

07. Cross Connection Control Program - Non-Community Water Systems. All suppliers of water for non-community water systems shall ensure that cross connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected and tested annually for functionality by an Idaho licensed tester, as specified in Subsection 552.06.c. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

900. TABLES.

01. Table 1 -- Minimum Distances From a Public Water System Well.

Minimum Distances from a Public Water System Well	
Gravity sewer <u>wastewater</u> line	50 feet
Any potential source of contamination	50 feet
Pressure sewer <u>wastewater</u> line	100 feet
<u>Class A Municipal Reclaimed Wastewater</u> Pressure distribution line	<u>50</u>
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Drainfield - standard subsurface disposal module	100 feet
Absorption module - large soil absorption system	150 - 300 feet, see IDAPA 58.01.03
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet
Storm water facilities disposing storm water originating off the well lot	50 feet

Minimum Distances from a Public Water System Well	
Municipal or industrial wastewater treatment plant	500 feet
Reclamation and reuse of municipal and industrial wastewater sites	See IDAPA 58.01.17
Biosolids application site	1,000 feet

(5-8-09)()

02. Table 2 - Well Casing Standards for Public Water System Wells.

STEEL PIPE					
				WEIGHT PER FOOT (pounds)	
DIAMETER (inches)			THICKNESS (inches)	Plain Ends	With Threads and Couplings
SIZE	External	Internal		(calculated)	(nominal)
6 (id) *	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (od) *	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.375	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

* id = inside diameter
od = outside diameter

(3-30-07)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.02 - ELIGIBILITY RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0102-1001

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 Sections 59-1314(1) and 72-1405, 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 August 18, 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:

Correction of statutory cross-reference and clarification. Correct statutory cross-reference in Rule 005.08 and clarify wording in Rule 113 regarding definition of "normally works twenty hours..." Clarify Rule 122 regarding member on leave of absence without pay.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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 it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

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 August 25, 2010.

DATED this 29th day of June, 2010.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230
Fax: 208- 334-3408

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 59-0102-1001

005. DEFINITIONS (RULE 5).

The following definitions are supplemental to those provided by Section 59-1302, Idaho Code. (1-1-94)

01. Board. "Board" means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters' Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman's Retirement Fund created by Chapter 15, Title 50, Idaho Code. (1-1-94)

02. Compensation. "Compensation" as used in Section 59-1342(6), Idaho Code, means "salary" as defined by Section 59-1302(31), Idaho Code. (1-1-94)

03. Date of Retirement. "Date of retirement" means the effective date on which a retirement allowance becomes payable. (1-1-94)

04. Employee. "Employee" means a person as defined in Section 59-1302(14), Idaho Code. (1-1-94)

05. Employment. "Employment" as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member's date of hire to the member's succeeding date of separation from that employer. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. (1-1-94)

06. Firefighters' Retirement Fund. "Firefighters' Retirement Fund" or "FRF" is the retirement fund provided by Chapter 14, Title 72, Idaho Code. (1-1-94)

07. General Member. "General member" is a PERSI member not classified as a police officer, firefighter, or paid firefighter. (1-1-94)

08. Paid Firefighter. "Paid firefighter" includes a former FRF members and paid firefighters as defined by Section 59-13521(f), Idaho Code, hired October 1, 1980, and thereafter. ~~(1-1-94)~~(____)

09. Police Officer. "Police officer" means an employee who is serving in a position designated by Section 59-1303(3), Idaho Code, or in a position so designated by the Retirement Board as provided by Section 59-1303(4), Idaho Code. (1-1-94)

10. Primary Employer. The primary employer is the employer from whom the employee receives the highest aggregate salary per month. (1-1-94)

11. Public Employee Retirement System of Idaho. "Public Employee Retirement System of Idaho" or "PERSI" is the retirement system created by Chapter 13, Title 59, Idaho Code. (1-1-94)

12. Retirement Board. "Retirement Board" means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, and of the Firefighters' Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman's Retirement Fund created by Chapter 15, Title 50, Idaho Code. (1-1-94)

13. Same Position. "Same position" as set forth in Section 59-1303(7), Idaho Code, means the same job classification or position title including continued employment in any revised job classification or new position title evolving from that same position as the result of personnel reclassification procedures provided the continued employment remains within the same state agency or within the same department of a political subdivision. (1-1-94)

14. Surviving Spouse. "Surviving spouse" is a person as defined in Section 15-2-802, Idaho Code. (1-1-94)

15. **Teacher.** “Teacher” is defined as a school employee who is required to be certified. (1-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

113. DEFINITION OF NORMALLY WORKS TWENTY HOURS (RULE 113).

If a person works twenty (20) hours or more per week ~~over~~ for more than one-half (1/2) of the weeks during the period of employment being considered, then the person meets the requirements of Section 59-1302(14)(A)(a), Idaho Code (“normally works twenty (20) hours or more per week”), and shall be considered an employee if the person meets the other requirements of Section 59-1302(14), Idaho Code. Statutory References: Section 59-1302(14)(A)(a).
(1-1-94)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

122. LEAVE OF ABSENCE (RULE 122).

A member is ~~an inactive member~~ ineligible to contribute and receive membership service credit while on leave of absence without pay or while on leave of absence with less than one-half (1/2) pay, unless the absence is occasioned by a worker’s compensation claim approved by a surety. An active member separated from employment under conditions where both the member and the employer plan a later return to employment should be placed on leave of absence without pay during the planned period of absence. (1-1-94)(_____)

01. Employer and Employee Contributions -- Leave of Absence. During the leave of absence without pay, employer and employee contributions cease. If the member is on a leave of absence as a result of an approved worker’s compensation claim, employer and employee contributions are due and payable on any salary paid to the member. The member is entitled to a month of membership service credit for each month the member remains on leave of absence as a result of an approved worker’s compensation claim and receives salary in addition to income benefits. (1-1-94)

02. Documentation of Leave of Absence. The employer shall provide PERSI with documentation, on a form provided by PERSI, of a leave of absence to clarify the member’s status and retirement benefit entitlement. (1-1-94)

03. Status of Employee on Leave of Absence. An employee placed on a leave of absence by an employer remains in an employee status and is ineligible for payment of any separation benefits or for payment of a service, early, disability, or vested retirement allowance. If a member on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated. (5-8-09)

04. Leave of Absence -- Effect on Benefit Enhancement. An employee shall not be placed on a leave of absence without pay prior to the effective date of a benefit enhancement and then return to work after the effective date of the benefit enhancement for the purpose of qualifying for the benefit enhancement. An employee placed on unpaid leave of absence prior to the date of the benefit enhancement who returns to work after the effective date of the benefit enhancement and subsequently applies for retirement shall include with the application for retirement, certification from the employer that the leave of absence was not granted for the purpose of allowing the person to qualify for the benefit enhancement. (1-1-94)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0103-1001

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 Sections 59-1314(1) and 72-1405, 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 August 18, 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:

Section 59-1322(1), Idaho Code, requires the Retirement Board to establish contribution rates to fund benefits, within certain constraints. The Retirement Board has determined, based on actuarial values of reserves and liabilities, that it is necessary to increase the contributions necessary to fund the level of benefits authorized by the plan. The contribution rates will be increased by a total of 5.28%. The increase is to be phased in over a three-year period, beginning July 1, 2011. These increases will affect employees and employers, since, by law, contributions are allocated 37.5% to employees and 62.5% to employers.

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

Increase contribution rates by a total of 5.28%. The increase is to be phased in over a three-year period, beginning July 1, 2011. These increases will affect employees and employers, since, by law, contributions are allocated 37.5% to employees and 62.5% to employers.

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:

Employer contribution rates will increase by a total of 3.26% (of payroll) over a three-year period, beginning July 1, 2011. This will affect the general fund as the state is a PERSI employer, to the extent that an agency's PERSI employer fund contributions are made from general fund dollars.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfoy, Deputy Attorney General, PERSI, 287-9271.

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 August 25, 2010.

DATED this 29th day of June, 2010.

Don Drum, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230 / Fax: 208- 334-3408

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 59-0103-1001

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2011. Beginning July 1, 2011, the rate shall be eleven point thirty-two percent (11.32%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be twelve point twenty-four percent (12.24%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirteen point sixty-five percent (13.65%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (~~5-8-09~~)(_____)

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I And II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll <u>through June 30, 2011. Beginning July 1, 2011, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll</u> until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll <u>through June 30, 2011. Beginning July 1, 2011, the rate shall be thirty seven point fifty-five percent (37.55%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be thirty eight point forty-seven percent (38.47%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirty nine point eighty-eight percent (39.88%) of payroll</u> until next determined by the Board.

(5-8-09)()

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2011. Beginning July 1, 2011, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll through June 30, 2011. Beginning July 1, 2011, the rate shall be twenty eight point nine percent (28.9%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be twenty nine point eighty-two percent (29.82%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirty one point twenty-three percent (31.23%) of payroll until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (5-8-09)()

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2011. Beginning July 1, 2011, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004.

Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2011. Beginning July 1, 2011, the rate shall be six point seventy-nine percent (6.79%) of salary through June 30, 2012. Beginning July 1, 2012, the rate shall be seven point thirty-four percent (7.34%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be eight point nineteen percent (8.19%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (~~5-8-09~~)(_____)

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2011. Beginning July 1, 2011, the rate shall be eight point thirty-two percent (8.32%) of salary through June 30, 2012. Beginning July 1, 2012, the rate shall be eight point ninety-nine percent (8.99%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be ten percent (10%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (~~5-8-09~~)(_____)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.04 - DISABILITY RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0104-1001

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 Sections 59-1314(1) and 72-1405, 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 August 18, 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:

Amend rules 06, 201, 205 and 300 to implement HB 458, passed in the 2010 session, which created Section 59-1354A, Idaho Code regarding a disability retiree return to work. Technical correction to rule 100. Delete rule 102 (duplicative of rule 300).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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 it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

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 August 25, 2010.

DATED this 29th day of June, 2010.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230
Fax: 208- 334-3408

THE FOLLOWING IS THE TEXT FOR DOCKET NO. 59-0104-1001

006. DEFINITIONS (RULE 6).

PERSI adopts through incorporation by reference as if set forth fully herein all of the definitions listed in IDAPA 59.01.02, Section 005, "Eligibility Rules of the Public Employee Retirement System of Idaho". The following definitions are supplemental. (4-5-00)()

01. Applicant. "Applicant" means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL RULE (RULE 100).

Only ~~active~~ members of PERSI with five (5) years of credited service are eligible for disability retirement except as provided in Section 59-1352(2), Idaho Code. (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

~~**102. DISABLED PRIOR TO SEPARATION (RULE 102).**~~

~~The applicant must demonstrate that, before he separated from service, he was disabled under the applicable disability standard. In other words, the applicant must demonstrate that, while an active member, he was disabled under the applicable standard.~~ (4-5-00)

~~1032. -- 199. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

201. INITIAL APPLICATION REVIEW —~~SERVICE REQUIREMENTS~~ (RULE 201).

Applications will first be reviewed to determine whether the applicant meets ~~service~~ eligibility requirements. If ~~service~~ all eligibility requirements are met, the application will proceed to disability assessment review. If ~~service~~ all eligibility requirements are not met, the applicant will be notified in writing. ~~Eligibility determinations are subject to subsequent review, audit and adjustment.~~ (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

205. DELEGATION (RULE 205).

PERSI may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "PERSI" includes those third parties. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the board may delegate its authority under Section 59-1354A, Idaho Code, to a third party. Where such delegation has been made, the term "Board" includes those third parties. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

300. BURDEN ON APPLICANT (RULE 300).

~~Disability retirement is only available to active members.~~ Applicant must demonstrate that, on or before applicant's last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the member must demonstrate that he could not successfully return to work because of the same disability on which his disability retirement was based. (4-5-00)()

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.05 - SEPARATION FROM SERVICE RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0105-1001

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 Sections 59-1314(1) and 72-1405, 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 August 18, 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:

Delete rule 104 allowing for pre-tax payroll deduction to pay for reinstatement of prior service. Reinstatement could be made pre-tax through a rollover from a qualified plan and can be made with after tax dollars.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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 it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

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 August 25, 2010.

DATED this 29th day of June, 2010.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230
Fax: 208- 334-3408

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 59-0105-1001

~~104. EMPLOYER "PICKUP" OF REINSTATEMENT PAYMENTS (RULE 104).~~

~~**01. Periodic Pre Tax Payments.** Payroll deduction payments may be made pre tax under the employer pickup provision referenced in Section 59-1332, Idaho Code, only if the member authorizes an irrevocable payroll deduction. Once executed, the deduction cannot be changed or revoked. If the member terminates employment the member may continue making payments directly to PERSI but they will not be considered pre tax until they are picked up by a subsequent irrevocable payroll deduction, approved by PERSI, and executed with another PERSI employer. (3-30-01)~~

~~**02. Multiple Irrevocable Payroll Deductions.** Members who have previously authorized an irrevocable payroll deduction for purposes of making periodic pre tax payments to reinstate previous credited service as provided in Section 59-1360, Idaho Code, may increase repayments by executing additional irrevocable payroll deductions to supplement the previously authorized deductions so long as the previous irrevocable deductions are not modified or terminated. (3-30-01)~~

1054. IN-SERVICE TRANSFERS TO REINSTATE SERVICE (RULE 1054).

To the extent permitted by federal law, and in accordance with any regulation or other guidance issued by the Internal Revenue Service, an active member may transfer funds from a 401(k), a 403(b), or an eligible 457(b) plan, in which they are currently eligible to participate, to the Base Plan for purposes of buying back service previously forfeited due to receiving a separation benefit, purchasing service related to eligible waiting periods, or purchasing service for periods of delinquent contributions. (5-3-03)

~~1065.~~ -- 123. (RESERVED).

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.06 - RETIREMENT RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO.59-0106-1001

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 Sections 59-1314(1) and 72-1405, 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 August 18, 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:

Clarification of rule 162 (Table C) to reflect the factors applicable to those persons who retired before July 1, 1995, the last time the factors were changed; delete rule 163; and adds a new rule 557 to incorporate definitions for purposes of the federal Pension Protection Act which provides that PERSI pays insurance premiums from retirement allowance for retired public safety officers, which is exempt from income tax up to \$3,000.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

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 August 25, 2010.

DATED this 29th day of June, 2010.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230
Fax: 208- 334-3408

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 59-0106-1001

162. ACTUARIAL ASSUMPTION TABLES (RULE 162).

The actuarial tables used for determining optional and early retirement benefits are as follows:

TABLE A -- Page 1

**PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS**

If the date of last contribution is prior to 10/1/92

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.770	.690	.610	.530	.450
1	.998	.968	.938	.908	.878	.843	.763	.683	.603	.523	
2	.995	.965	.935	.905	.875	.837	.757	.677	.597	.517	
3	.993	.963	.933	.903	.873	.830	.750	.670	.590	.510	
4	.990	.960	.930	.900	.870	.823	.743	.663	.583	.503	
5	.988	.958	.928	.898	.868	.817	.737	.657	.577	.497	
6	.985	.955	.925	.895	.865	.810	.730	.650	.570	.490	
7	.983	.953	.923	.893	.863	.803	.723	.643	.563	.483	
8	.980	.950	.920	.890	.860	.797	.717	.637	.557	.477	
9	.978	.948	.918	.888	.858	.790	.710	.630	.550	.470	
10	.975	.945	.915	.885	.855	.783	.703	.623	.543	.463	
11	.973	.943	.913	.883	.853	.777	.697	.617	.537	.457	

First sixty months reduction: .2500% Next sixty months reduction: 0.6667%

(1-1-94)

TABLE A -- Page 2

**PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS**

If the date of last contribution is on or after 10/1/92 but prior to 10/1/93

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.777	.705	.632	.560	.487
1	.998	.968	.938	.908	.878	.844	.771	.699	.626	.554	

Months	Years									
2	.995	.965	.935	.905	.875	.838	.765	.693	.620	.548
3	.993	.963	.933	.903	.873	.832	.759	.687	.614	.542
4	.990	.960	.930	.900	.870	.826	.753	.681	.608	.536
5	.988	.958	.928	.898	.868	.820	.747	.675	.602	.530
6	.985	.955	.925	.895	.865	.814	.741	.669	.596	.524
7	.983	.953	.923	.893	.863	.808	.735	.663	.590	.518
8	.980	.950	.920	.890	.860	.802	.729	.657	.584	.512
9	.978	.948	.918	.888	.858	.796	.723	.651	.578	.506
10	.975	.945	.915	.885	.855	.790	.717	.645	.572	.500
11	.973	.943	.913	.883	.853	.784	.711	.639	.566	.494

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6042%

(3-20-97)

TABLE A -- Page 3

PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS

If the date of last contribution is on or after 10/1/93 but prior to 10/1/94

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.785	.720	.655	.590	.525
1	.998	.968	.938	.908	.878	.845	.780	.715	.650	.585	
2	.995	.965	.935	.905	.875	.839	.774	.709	.644	.579	
3	.993	.963	.933	.903	.873	.834	.769	.704	.639	.574	
4	.990	.960	.930	.900	.870	.828	.763	.698	.633	.568	
5	.988	.958	.928	.898	.868	.823	.758	.693	.628	.563	
6	.985	.955	.925	.895	.865	.817	.752	.687	.622	.557	
7	.983	.953	.923	.893	.863	.812	.747	.682	.617	.552	
8	.980	.950	.920	.890	.860	.807	.742	.677	.612	.547	
9	.978	.948	.918	.888	.858	.801	.736	.671	.606	.541	
10	.975	.945	.915	.885	.855	.796	.731	.666	.601	.536	
11	.973	.943	.913	.883	.853	.790	.725	.660	.595	.530	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.5417%

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TABLE A -- Page 4

PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS

Date of last contribution is on or after 10/1/94 or later

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.0	.970	.940	.910	.880	.850	.792	.735	.677	.620	.562
1	.998	.968	.938	.908	.878	.845	.788	.730	.673	.615	
2	.995	.965	.935	.905	.875	.840	.783	.725	.668	.610	
3	.993	.963	.933	.903	.873	.836	.778	.721	.663	.606	
4	.990	.960	.930	.900	.870	.831	.773	.716	.658	.601	
5	.988	.958	.928	.898	.868	.826	.769	.711	.654	.596	
6	.985	.955	.925	.895	.865	.821	.764	.706	.649	.591	
7	.983	.953	.923	.893	.863	.816	.759	.701	.644	.586	
8	.980	.950	.920	.890	.860	.812	.754	.697	.639	.582	
9	.978	.948	.918	.888	.858	.807	.749	.692	.634	.577	
10	.975	.945	.915	.885	.855	.802	.745	.687	.630	.572	
11	.973	.943	.913	.883	.853	.797	.740	.682	.625	.567	

(3-20-97)

TABLE B -- Page 1

PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS

Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age

**Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors**

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.923	.853	.787	.727	.671	.620	.572	.528	.488	.451
1	.993	.917	.847	.782	.722	.667	.616	.568	.525	.485	
2	.987	.911	.841	.777	.717	.662	.612	.565	.521	.481	
3	.980	.905	.836	.772	.713	.658	.608	.561	.518	.478	
4	.974	.899	.830	.767	.708	.654	.604	.557	.515	.475	
5	.967	.893	.825	.762	.703	.649	.600	.554	.511	.472	
6	.961	.887	.819	.756	.699	.645	.596	.550	.508	.469	
7	.955	.881	.814	.751	.694	.641	.592	.546	.504	.466	
8	.948	.876	.808	.746	.689	.636	.588	.543	.501	.463	

Months	Years									
9	.942	.870	.803	.742	.685	.632	.584	.539	.498	.460
10	.936	.864	.798	.737	.680	.628	.580	.535	.494	.457
11	.930	.858	.793	.732	.676	.624	.576	.532	.491	.454

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TABLE B -- Page 2

PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS

Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age

**Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors**

Months	Years										
	10	11	12	13	14	15	16	17	18	19	20
0	.451	.416	.384	.355	.327	.302	.279	.258	.238	.220	.203
1	.448	.413	.382	.352	.325	.300	.277	.256	.236	.218	
2	.445	.411	.379	.350	.323	.298	.276	.254	.235	.217	
3	.442	.408	.377	.348	.321	.296	.274	.253	.233	.215	
4	.439	.405	.374	.345	.319	.294	.272	.251	.232	.214	
5	.436	.402	.372	.343	.317	.293	.270	.249	.230	.213	
6	.433	.400	.369	.341	.315	.291	.268	.248	.229	.211	
7	.430	.397	.367	.339	.313	.289	.267	.246	.227	.210	
8	.427	.394	.364	.336	.311	.287	.265	.244	.226	.208	
9	.424	.392	.362	.334	.308	.285	.263	.243	.224	.207	
10	.422	.389	.359	.332	.306	.283	.261	.241	.223	.206	
11	.419	.387	.357	.330	.304	.281	.260	.240	.221	.204	

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PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS

Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age

**Death Benefits: Additional Years and Months Until Member Would Qualify
for an Unreduced Service Retirement Allowance
AFTER Applying Table A Factors**

	Months		Years			
	20	21	22	23	24	25
0	.203	.187	.173	.160	.148	.136
1	.202	.186	.172	.159	.147	.135
2	.200	.185	.171	.158	.146	.134
3	.199	.184	.170	.157	.145	.134
4	.198	.183	.169	.156	.144	.133
5	.196	.181	.167	.155	.143	.132
6	.195	.180	.166	.154	.142	.131
7	.194	.179	.165	.153	.141	.130
8	.192	.178	.164	.152	.140	.129
9	.191	.177	.163	.151	.139	.128
10	.190	.175	.162	.150	.138	.127
11	.189	.174	.161	.149	.137	.127

(1-1-94)

TABLE C -- Page 1

PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS

For persons retiring before July 1, 1995

	<u>Age Difference in Years</u>	<u>Factors</u>	
		<u>Option 1</u>	<u>Option 2</u>
	<u>15 *</u>	<u>0.600</u>	<u>0.750</u>
	<u>14</u>	<u>0.610</u>	<u>0.758</u>
	<u>13</u>	<u>0.621</u>	<u>0.766</u>
	<u>12</u>	<u>0.631</u>	<u>0.775</u>
	<u>11</u>	<u>0.642</u>	<u>0.782</u>
<u>Member</u>	<u>10</u>	<u>0.652</u>	<u>0.789</u>
<u>Older</u>	<u>9</u>	<u>0.663</u>	<u>0.797</u>
<u>Than</u>	<u>8</u>	<u>0.674</u>	<u>0.804</u>
<u>Contingent Annuitant</u>	<u>7</u>	<u>0.685</u>	<u>0.812</u>
	<u>6</u>	<u>0.697</u>	<u>0.821</u>
	<u>5</u>	<u>0.708</u>	<u>0.830</u>
	<u>4</u>	<u>0.720</u>	<u>0.838</u>
	<u>3</u>	<u>0.732</u>	<u>0.846</u>

	<u>Age Difference in Years</u>	<u>Factors</u>	
	<u>2</u>	<u>0.746</u>	<u>0.855</u>
	<u>1</u>	<u>0.762</u>	<u>0.865</u>
	<u>0</u>	<u>0.780</u>	<u>0.876</u>
	<u>1</u>	<u>0.799</u>	<u>0.887</u>
	<u>2</u>	<u>0.823</u>	<u>0.902</u>
	<u>3</u>	<u>0.836</u>	<u>0.910</u>
	<u>4</u>	<u>0.847</u>	<u>0.918</u>
	<u>5</u>	<u>0.856</u>	<u>0.924</u>
<u>Member</u>	<u>6</u>	<u>0.865</u>	<u>0.930</u>
<u>Younger</u>	<u>7</u>	<u>0.873</u>	<u>0.935</u>
<u>Than</u>	<u>8</u>	<u>0.881</u>	<u>0.940</u>
<u>Contingent Annuitant</u>	<u>9</u>	<u>0.888</u>	<u>0.944</u>
	<u>10</u>	<u>0.897</u>	<u>0.949</u>
	<u>11</u>	<u>0.906</u>	<u>0.955</u>
	<u>12</u>	<u>0.916</u>	<u>0.961</u>
	<u>13</u>	<u>0.926</u>	<u>0.967</u>
	<u>14</u>	<u>0.934</u>	<u>0.969</u>
	<u>15 or more</u>	<u>0.940</u>	<u>0.970</u>

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. ()

TABLE C -- Page 2

PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS

For persons retiring on or after July 1, 1995

	<u>Age Difference in Years</u>	<u>Factors</u>	
		<u>Option 1</u>	<u>Option 2</u>
	<u>15 *</u>	<u>0.690</u>	<u>0.810</u>
	<u>14</u>	<u>0.700</u>	<u>0.816</u>
	<u>13</u>	<u>0.710</u>	<u>0.822</u>
	<u>12</u>	<u>0.720</u>	<u>0.828</u>
	<u>11</u>	<u>0.730</u>	<u>0.834</u>

	Age Difference in Years	Factors	
Member	10	0.735	0.840
Older	9	0.740	0.846
Than	8	0.745	0.852
Contingent Annuitant	7	0.750	0.858
	6	0.755	0.864
	5	0.760	0.870
	4	0.765	0.876
	3	0.770	0.882
	2	0.785	0.888
	1	0.800	0.894
	0	0.815	0.900
	1	0.835	0.915
	2	0.855	0.925
	3	0.875	0.935
	4	0.890	0.945
	5	0.900	0.950
Member	6	0.910	0.955
Younger	7	0.920	0.960
Than	8	0.930	0.965
Contingent Annuitant	9	0.940	0.967
	10	0.944	0.969
	11	0.946	0.971
	12	0.948	0.973
	13	0.950	0.975
	14	0.952	0.977
	15 or more	0.954	0.979

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (Amended 96) (3-20-97)(____)

~~163. POST RETIREMENT COST OF LIVING ADJUSTMENTS — FIREFIGHTERS' RETIREMENT FUND (RULE 163).~~

~~The Board shall annually determine the post retirement cost of living adjustment (COLA) for the firefighters' retirement fund pursuant to Section 72-1471, Idaho Code. The Board shall annually adopt the COLA at the November Board meeting with an effective date of January 1 of the next year.~~

~~Statutory References: Section 72-1471, Idaho Code. (3-20-97)~~

~~1643~~. -- 174. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

557. PENSION PROTECTION ACT DEFINITIONS (RULE 557).

Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions shall apply: ()

01. Chaplain. “Chaplain” means any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. ()

02. Eligible Retired Public Safety Officer. “Eligible retired public safety officer” means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions are made. ()

03. Normal Retirement Age. “Normal Retirement Age” means the member’s age at the time that the member is eligible to retire with an unreduced benefit. ()

04. Public Safety Officer. “Public Safety Officer” means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. ()

~~5578~~. -- 575. (RESERVED).

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

*The written comment submission deadline is August 25, 2010 unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

02-0214-1001, Rules for Weights and Measures. Updates incorporation by reference documents.

02-0408-1001, Rules Governing Grade A Milk and Milk Products. (Temp & Prop) Consolidates various milk rules, which are being repealed, into this one chapter and incorporates by reference all documents previously incorporated in the repealed chapters into this chapter.

02-0409-1001, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers. (Temp & Prop) Chapter repeal.

02-0410-1001, Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers. (Temp & Prop) Chapter repeal.

02-0411-1001, Rules Governing Evaluation of Milk Laboratories. (Temp & Prop) Chapter repeal.

IDAPA 04 - OFFICE OF THE ATTORNEY GENERAL PO Box 83720, Boise, ID 83720-0010

04-1101-1001, Idaho Rules of Administrative Procedure of the Attorney General. (Temp & Prop) Conforms rule to statutory changes by providing a definition of service of agency orders and by allowing for electronic service by agencies and parties; provides a procedural rule for consideration of requests to award costs and fees; and amends requirements for the publication of the notice of proposed rulemaking when fees or charges are imposed or when incorporating by reference. Comment by 9/10/10.

IDAPA 09 - DEPARTMENT OF LABOR 317 W. Main Street, Boise, ID 83735

09-0104-1001, Unemployment Insurance Benefit Fraud and Overpayment Rules. (Temp & Prop) Allows a waiver of repayment request to be made within 14 days of the electronic transmission date of a Determination of Overpayment and allows a Determination of Overpayment to become final 14 days after its electronic transmission; provides recourse for errors in electronic transmissions; adds required sections to rule.

09-0106-1001, Rules of the Appeals Bureau. (Temp & Prop) Provides recourse for errors in the electronic transmission of determinations or decisions; adds that notice of decisions may be served on interested parties by electronic transmission; adds required sections.

09-0130-1001, Unemployment Insurance Benefits Administration Rules. (Temp & Prop) Allows for benefit payment checks that are lost, stolen, destroyed, or forged to be reissued by means other than paper checks; and

reduces the amount of unemployment insurance benefits paid in a compensable week by an amount equal to the temporary disability benefits a claimant received under any worker's compensation law.

09-0135-1001, Unemployment Insurance Tax Administration Rules. (Temp & Prop) Adds that notice of determinations may be served on interested parties by electronic transmission; requires employers to maintain unemployment insurance tax records for 5 years allowing for the implementation of the new 5-year enforcement limitation period; provides a 5-year statute of limitations for audits and inspections of employer records.

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

1510 Watertower St., Ste. 110, Meridian, ID 83642-7993

***10-0101-1001, Rules of Procedure.** (*PH) Allows initial licensing as a professional engineer through use of the Structural Engineer examination without first being licensed as a professional engineer in another discipline and without an additional 2 years of experience; allows the details of investigations to be released to law enforcement agencies and licensing entities in other jurisdictions.

***10-0102-1001, Rules of Professional Responsibility.** (*PH) Exempts a licensee from notifying another licensee of the discovery of an error if the discoverer is retained by an attorney, in which case the Idaho Rules of Civil Procedure would apply; and requires that licensees be prompt in statements and written responses to the Board.

**IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES**

PO Box 83720, Boise, ID 83720-0066

15-0401-1001, Rules of the Division of Human Resources and Personnel Commission. (Temp & Prop) Increases the number of names on a hiring list of eligible job applicants from 10 to 25 in compliance with statute. Comment by 8/27/10.

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

16.02.06 - Rules Governing Quality Assurance for Idaho Clinical Laboratories

16-0206-1001, Chapter repeal.

16-0206-1002, Chapter rewrite updates the rule to reflect current Bureau practices and organizational structure and aligns rule to federal regulations.

16.03.09 - Medicaid Basic Plan Benefits

16-0309-1001, (Temp & Prop) Provides a model form for notice of transfer or encumbrance to be used by a Medicaid recipient or his representative when notifying the Department of transferring real property.

***16-0309-1002,** (*PH) (Temp & Prop) Establishes the non-emergency medical transportation requirements for a transportation brokerage system for Medicaid participants who have no other means to receive Medicaid-covered services.

**IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION
PO Box 87320, Boise ID 83720-0065**

26-0120-1001, Rules Governing the Administration of Park and Recreation Areas and Facilities. (Temp & Prop) The following fees have been established or increased: Overnight Use and Campground Amenity fees; Entrance Annual Pass; Entrance Annual Pass Second Pass; Entrance Fee Surcharge; Camping Extra Vehicle Fee; Moorage - Overnight; Moorage - Camping on Vessel; and Moorage - Camping on Buoy.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129**

39-0322-1001, Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations. Increases limitations for permitted vehicle combinations on "blue-coded routes" to 95 feet in overall length including load overhang.

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

58.01.01 - Rules for the Control of Air Pollution in Idaho.

58-0101-0904, Addresses mercury emissions from sources whose mercury emissions are not regulated under federal law. Comment by 9/1/10.

***58-0101-1002**, (*PH) Updates incorporation by reference to conform to changes in federal regulations.

58-0105-1001, Rules and Standards for Hazardous Waste. Updates incorporation by reference to conform to changes in federal regulations. Comment by 9/1/10.

58-0108-1001, Idaho Rules for Public Drinking Water Systems. Clarifies definitions and facility design standards; reorganizes certain sections such as the filtration and disinfection process; updates citations to documents incorporated by reference. Comment by 9/1/10.

**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
PO Box 83720, Boise, ID 83720-0078**

59-0102-1001, Eligibility Rules of the PERSI. Clarifies definition of “normally works twenty hours...” and corrects statutory cross-references.

59-0103-1001, Contribution Rules for PERSI. Increases contribution rates by employees and employers by a total of 5.28% over a 3-year period beginning July 1, 2011.

59-0104-1001, Disability Rules of PERSI. Addresses a disability retiree return to work.

59-0105-1001, Separation from Service Rules for PERSI. Removes the pre-tax payroll deduction provision used to pay for reinstatement of prior service. Reinstatement could be made pre-tax through a rollover from a qualified plan and can be made with after tax dollars.

59-0106-1001, Retirement Rules of PERSI. Clarifies factors applicable to persons who retired before July 1, 1995; deletes rule 163; and adds a new rule to incorporate definitions for purposes of the federal Pension Protection Act.

RULES ADOPTED AS TEMPORARY ONLY

Idaho State Tax Commission

35-0105-1002, Idaho Motor Fuels Tax Administrative Rules.

NOTICE OF SCHEDULED PUBLIC HEARINGS

Department of Health and Welfare

16-0305-1001, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD) (Written Comment Period Extended).

Please refer to the Idaho Administrative Bulletin, [August 4, 2010, Volume 10-8](#), 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/.

Office of the Administrative Rules Coordinator, Dept. of Administration, PO Box 83720, Boise, ID 83720-0306
Phone: 208-332-1820; Fax: 332-1896; Email: rulescoordinator@adm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

July 1, 1993 -- Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*This online index provides a history of all agency rulemakings from 1993 to the present.
It tracks all rulemaking activities on each chapter of rules and includes negotiated,
temporary, proposed, pending and final rules, public hearing notices,
vacated rulemaking notices, and executive orders of the Governor.*

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

March 29, 2010 -- August 4, 2010

*(eff. *PLR) - Final Rule Adoption Date Pending Legislative Review And Approval*

(eff. date)L - Denotes Adoption by Legislative Action

(eff. date)T - Temporary Rule Effective Date

SCR # - denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # - denotes the number of a House Concurrent Resolution (Legislative Action)

*(This Abridged Index includes rules promulgated before March 29, 2010 that have not been
adopted as final rules and all rulemakings being promulgated after March 29, 2010 - Sine Die.)*

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02.02.14, Rules for Weights and Measures

02-0214-1001 Proposed Rulemaking, Bulletin Vol. 10-8

02.04.08, Rules Governing Grade A Milk and Milk Products

02-0408-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 10-1-10)T

02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers

02-0409-1001 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-8 (eff. 10-1-10)T

02.04.10, Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers

02-0410-1001 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-8 (eff. 10-1-10)T

02.04.11, Rules Governing Evaluation of Milk Laboratories

02-0411-1001 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-8 (eff. 10-1-10)T

02.04.14, Rules Governing Dairy Waste

02-0414-0902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-10

02.04.21, Rules Governing the Importation of Animals

02-0421-1001 Notice of Temporary Rulemaking, Bulletin Vol. 10-6 (eff. 4-15-10)T

02.06.10, Rules Governing the Potato Cyst Nematode (Globodera pallida)

02-0610-0901 Temporary and Proposed Rule, Bulletin Vol. 09-12 (eff. 10-1-09)T

02-0610-0901 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5

02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho

02-0613-0801 Notice of Intent to Promulgate Rules - Request for Written Comments, Bulletin Vol. 08-9

02-0613-0801 Notice of Intent to Promulgate Rules - Request for Written Comments, Bulletin Vol. 08-10

02-0613-0801 Notice of Intent to Promulgate Rules - Request for Written Comments, Bulletin Vol. 08-11

IDAPA 04 -- OFFICE OF THE ATTORNEY GENERAL

04.11.01, Idaho Rules of Administrative Procedure of the Attorney General

04-1101-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8

IDAPA 05 -- DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01, Rules for Contract Providers

05-0101-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-5 (eff. 3-29-10)T

05-0101-1001 Adoption of Pending Rule, Bulletin Vol. 10-8 (eff. *PLR 2011)

IDAPA 08 -- STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02, Rules Governing Uniformity - State Board of Education Rules**08-0202-1001** Proposed Rulemaking, Bulletin Vol. 10-6**08.02.03, Rules Governing Thoroughness - State Board of Education Rules****08-0203-1001** Adoption of Temporary Rule, Bulletin Vol. 10-1 (eff. 11-9-09)T**08-0203-1001** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5**IDAPA 09 -- DEPARTMENT OF LABOR****09.01.04, Unemployment Insurance Benefit Fraud and Overpayment Rules****09-0104-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T**09.01.06, Rules of the Appeals Bureau****09-0106-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T**09.01.30, Unemployment Insurance Benefits Administrative Rules****09-0130-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T**09.01.35, Unemployment Insurance Tax Administrative Rules****09-0135-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T**IDAPA 10 -- IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS
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IDAPA 28.01.01, "Rules of the Idaho Personnel Commission" were transferred to the Division of Human Resources and Personnel Commission under the Office of the Governor effective July 1, 1999 and redesignated as IDAPA 15.04.01/

15.04.01, Rules of the Division of Human Resources and Personnel Commission

15-0401-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T

IDAPA 16 -- DEPARTMENT OF HEALTH AND WELFARE

16.02.02, Rules of the Emergency Medical Services (EMS) Physician Commission

16-0202-1001 Proposed Rulemaking, Bulletin Vol. 10-7

16.02.03, Rules Governing Emergency Medical Services

16-0203-0901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-5

16-0203-0901 Temporary and Proposed Rulemaking, Bulletin Vol. 09-10 (eff. 7-1-09)T

16-0203-0901 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5

16.02.06, Rules Governing Quality Assurance for Clinical Laboratories

16-0206-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-5

16-0206-1001 Proposed Rulemaking, Bulletin (Chapter Repeal) Vol. 10-8

16-0206-1002 Proposed Rulemaking, Bulletin (Chapter Rewrite) Vol. 10-8

16.02.13, Rules Governing Certification of Idaho Water Quality Laboratories

16-0213-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-5

16.03.01, Eligibility for Health Care Assistance for Families and Children

16-0301-1001 Proposed Rulemaking, Bulletin Vol. 10-7

16.03.04, Rules Governing the Food Stamp Program in Idaho

16-0304-0902 Temporary Rulemaking, Bulletin Vol. 09-7 (eff. 6-1-09)T (Expires May 31, 2010)

16-0304-0902 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5 (Expires 5-31-10)

16-0304-1001 Temporary Rulemaking, Bulletin Vol. 10-7 (eff. 6-1-10)T (Expires May 31, 2011)

16.03.05, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)

16-0305-0904 Temporary and Proposed Rulemaking, Bulletin Vol. 09-12 (eff. (1-1-10)T)

16-0305-0904 Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 10-4 (eff. (1-1-10)T)

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16-0305-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-6 (eff. 7-1-10)T

16-0305-1001 Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 10-8

16.03.08, Rules Governing Temporary Assistance for Families in Idaho

16-0308-1001 Proposed Rulemaking, Bulletin Vol. 10-5

16.03.09, Medicaid Basic Plan Benefits

16-03091001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T

16-03091002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 9-1-10)T

16.03.10, Medicaid Enhanced Plan Benefits

16-0310-0902 Temporary and Proposed Rulemaking, Bulletin Vol. 09-1 (eff. 1-1-09)T

16-0310-0902 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 09-6

16-0310-0902 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5

16-0310-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-5 (eff. 1-1-10)T

16-0310-1001 Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 10-7

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16.03.13, Consumer-Directed Services

- 16-0313-1001 Adoption of Temporary Rule, Bulletin Vol. 10-1 (eff. 1-1-10)T (Expires 3-29-10)
16-0313-1002 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-7

16.03.24, The Medically Indigent Program - Request for Medicaid Eligibility Determination

- 16-0324-1001 Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 10-7 (eff. 7-1-10)T

16.04.11, Developmental Disabilities Agencies

- 16-0411-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-7

16.05.06, Criminal History and Background Checks

- 16-0506-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 5-1-10)T - (7-1-10)T
16-0506-1002 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-7 (eff. 7-1-10)T

16.06.02, Rules Governing Standards for Child Care Licensing

- 16-0602-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 7-1-10)T
16-0602-1002 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-7 (eff. 7-1-10)T

16.06.12, Rules Governing the Idaho Child Care Program (ICCP)

- 16-0612-1001 Temporary Rulemaking, Bulletin Vol.10-4 (eff. 1-1-10)T
16-0612-1001 Proposed Rulemaking, Bulletin Vol.10-5

16.07.37, Children's Mental Health Services

- 16-0737-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-6 (eff. 5-1-10)T

IDAPA 17 -- INDUSTRIAL COMMISSION**17.02.05, Administrative Rules of the Industrial Commission Under Worker's Compensation Law
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- 17-0205-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 7-1-10)T

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- 17-0501-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 7-1-10)T

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- 18-0105-0901 Temporary and Proposed Rulemaking, Bulletin Vol. 09-12 (eff. 1-1-10)T
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