

IDAHO ADMINISTRATIVE BULLETIN

July 4, 2012 -- Volume 12-7

Idaho Department of Administration
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IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all proposed rulemaking actions and must invite public input once formal rulemaking procedures have been initiated. The public receives notice that an agency has initiated formal rulemaking procedures through the Idaho Administrative Bulletin and a Public Notice of Intent (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 may 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.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. 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 identified by the calendar year and issue number. For example, Bulletin **11-1** refers to the first Bulletin issued in calendar year **2011**; Bulletin **12-1** refers to the first Bulletin issued in calendar year **2012**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **12-1** refers to January 2012; Volume No. **12-2** refers to February 2012; and so forth. Example: The Bulletin published in January 2011 is cited as Volume **11-1**. The December 2011 Bulletin is cited as Volume **11-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

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 distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. 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 normally results in the formulation of a proposed rule and the initiation of formal rulemaking procedures. One result, however, may also be that formal rulemaking is not initiated and no further action is taken by the agency. The rulemaking effectively stops before it gets started.

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.

Any proposed rulemaking that is 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 Legislative Services Office 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 adopt the pending rule. Because a proposed rule is not enforceable, it has no effective date, even when published in conjunction with a temporary rule that is of full force and effect. 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 determines that it is necessary that a rule become effective prior to receiving legislative authorization and without allowing for any public input, the agency may proceed and adopt a temporary rule. The law allows an 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.

The statute that regulates rulemaking in Idaho requires that the text of all proposed rulemakings publish in the Bulletin in order for the rulemaking to be valid. This is true for all temporary rules as well. In most cases, the agency wants the temporary rule to also become a final rule and in most of these cases, the temporary rule and the proposed rule text is identical. In this event, both rulemakings may be promulgated concurrently yet they remain separate rulemaking actions. The rulemaking is published in the Bulletin as a temporary/proposed rule. Combining the rulemaking allows for a single publication of the text in the Bulletin.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. The agency must publish a notice of rescission to effectively rescind the temporary rule. 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 pending 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 sections or their subparts 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 Rulemaking - Adoption of Pending Rule" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

No pending rule adopted by an agency becomes final and effective until it has been submitted to the legislature for review and approval. Where the legislature finds that an agency has violated the legislative intent of the authorizing statute, a concurrent resolution may be adopted to reject the rulemaking in whole or in part. A "Notice of Rulemaking - Final Rule" and the final codified text must be published in the Bulletin for any rule that is wholly or partially rejected by concurrent resolution of the legislature. Unless rejected by concurrent resolution, a pending rule that is reviewed by the legislature becomes final and effective at the end of the session in which it is reviewed without any further legislative action. All pending rules that are approved by concurrent resolution become final and effective upon adoption of the concurrent resolution unless otherwise stated. In no event can a pending rule 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: adminrules.idaho.gov

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: adminrules.idaho.gov

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 schematic. 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 that are further subdivided into 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. Each rulemaking that is filed with the Coordinator is assigned a “DOCKET NUMBER.” The docket number is a series of numbers separated by a hyphen “-”, (**38-0501-1201**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1201”

“**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**).

“**1201**” 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 2012**. A subsequent rulemaking on this same rule chapter in calendar year 2012 would be designated as “**1202**”. The docket number in this scenario would be 38-0501-**1202**.

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)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2012

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
12-1	January 2012	*November 25, 2011	January 4, 2012	January 25, 2012
12-2	February 2012	January 13, 2012	February 1, 2012	February 22, 2012
12-3	March 2012	February 10, 2012	March 7, 2012	March 28, 2012
12-4	April 2012	March 9, 2012	April 4, 2012	April 25, 2012
12-5	May 2012	April 6, 2012	May 2, 2012	May 23, 2012
12-6	June 2012	May 4, 2012	June 6, 2012	June 27, 2012
12-7	July 2012	June 8, 2012	July 4, 2012	July 25, 2012
12-8	August 2012	July 6, 2012	August 1, 2012	August 22, 2012
12-9	September 2012	August 3, 2012	September 5, 2012	September 26, 2012
12-10	October 2012	**August 31, 2012	October 3, 2012	October 24, 2012
12-11	November 2012	October 5, 2012	November 7, 2012	November 28, 2012
12-12	December 2012	November 2, 2012	December 5, 2012	December 26, 2012

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2013

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
13-1	January 2013	*November 30, 2012	January 2, 2013	January 23, 2013
13-2	February 2013	January 11, 2013	February 6, 2013	February 27, 2013
13-3	March 2013	February 8, 2013	March 6, 2013	March 27, 2013
13-4	April 2013	March 8, 2013	April 3, 2013	April 24, 2013
13-5	May 2013	April 5, 2013	May 1, 2013	May 22, 2013
13-6	June 2013	May 10, 2013	June 5, 2013	June 26, 2013
13-7	July 2013	June 7, 2013	July 3, 2013	July 24, 2013
13-8	August 2013	July 5, 2013	August 7, 2013	August 28, 2013
13-9	September 2013	August 2, 2013	September 4, 2013	September 25, 2013
13-10	October 2013	**August 30, 2013	October 2, 2013	October 23, 2013
13-11	November 2013	October 4, 2013	November 6, 2013	November 27, 2013
13-12	December 2013	November 8, 2013	December 4, 2013	December 25, 2013

****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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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2012-03

GOVERNOR'S TASK FORCE FOR CHILDREN AT RISK

WHEREAS, Idaho's children are her most valuable resource; and

WHEREAS, it is the responsibility of all Idahoans to provide a community system of support and protection for these children; and

WHEREAS, the protection of children from abuse and neglect is in the best interest of all Idahoans; and

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order the continuance of the Governor's Task Force on Children at Risk (Task Force).

The Task Force is responsible for reviewing and developing programs, as well as facilitating local jurisdictions to operate programs designed to improve:

- a. The handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation;*
- b. The handling of cases of suspected child abuse or neglect related fatalities;*
- c. The investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation; and*
- d. The handling of cases involving children with disabilities or serious health-related problems who are victims of abuse or neglect.*

Further, the Task Force shall establish and support a statewide child fatality review team (CFRT) to allow comprehensive and multidisciplinary review of deaths of children younger than 18 years-old, in order to identify what information and education may improve the health and safety of Idaho's children. The statewide CFRT established and supported by the Task Force is separate and apart from child death reviews convened by the Department of Health and Welfare in circumstances where the death of a child is suspected or confirmed to have resulted from abuse or neglect.

The Task Force shall be composed of not more than 18 members appointed by the Governor. The membership shall include, but will not be limited to, the following with consideration of geographical representation:

- Law Enforcement Community*
- Criminal Court Judge*
- Civil Court Judge*
- Prosecuting Attorney*
- Defense Attorney*
- Child Advocate Attorney for Children*
- Court Appointed Special Advocate Representative (where such programs operate)*
- Health Professional*
- Mental Health Professional*
- Child Protective Service Agency*
- Individual experience in working with children with disabilities*
- Parent Group Representative*

- *Education Representative*
- *Juvenile Justice Representative*
- *Adult former victim of child abuse or neglect*
- *Individual experienced in working with homeless children/youth*

The members of the Task Force shall serve at the pleasure of the Governor for a four-year term. Members of the Task Force shall elect their chair from among their members.

The Task Force shall submit a written report by June 1 of each year to document its achievements.

The Department of Health and Welfare shall be the fiscal agent, providing support for the Task Force, and shall monitor contracts for staff to carry out the activities directed by the Task Force, as Children's Justice Act Grant funding is available.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 8th day of May in the year of our Lord two thousand and twelve and of the Independence of the United States of America the two hundred thirty-sixth and of the Statehood of Idaho the one hundred twenty-second.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1201

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 July 18, 2012.

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 incorporate by reference the 2013 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://www.nist.gov/pml/wmd/index.cfm>.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

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

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:

This document is recognized nationally as the primary reference document, incorporating the most current version promotes uniformity throughout the United States.

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 July 25, 2012.

DATED this 8th day of June, 2012.

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

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0214-1201

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~2~~³ 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. ~~(3-29-12)~~()

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. Copies of NIST documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading at <http://www.nist.gov/pml/wmd/index.cfm>. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from <http://www.astm.org>, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428. (4-7-11)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-3421, Idaho Code.

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

Tuesday -- July 10, 2012 -- 2:30 p.m. (MDT)

**Idaho State Department of Agriculture
Meeting Rooms A&B
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change, as recommended by the Pesticide Licensing Advisory Committee, will be available on June 11, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by July 24, 2012.

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

All written comments must be directed to Ben Miller and must be delivered on or before July 24, 2012. Comments can be sent via email to Ben.Miller@agri.idaho.gov, or via mail to: Ben Miller, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested parties may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on July 10, 2012.

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

Due to recent changes to soil fumigation labels by the US EPA, all private applicators who want to purchase or apply soil fumigation products will have to attend training every three (3) years, specific to the soil fumigation product they wish to purchase. The US EPA will not require applicators to attend the chemical-specific training, if they maintain the soil fumigation category on their pesticide license. IDAPA 02.03.03.050.c, Rules Governing Pesticide and Chemigation Use and Application will be amended to add a new soil fumigation license category for private applicator licenses.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Ben Miller at (208) 332-8593, or via email at Ben.Miller@agri.idaho.gov.

DATED this June 8th, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 25-2710, Idaho Code.

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

Wednesday, July 11, 2012 -- 10:00 a.m. (MDT)

Wednesday, July 18, 2012 -- 10:00 a.m. (MDT)

Wednesday, August 1, 2012 -- 10:00 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712**

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

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Kathryn Mink, Section Manager Feed, Fertilizer & Seed. Individuals may also attend the public meetings to be conducted on the above dates during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

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

1. Add new Section 011 - Exemptions, to define those processing byproducts and production wastes that will be exempt from registration. Exempted products to be determined.
2. Add new Section 020 - Registration & Fees, to set in rule a negotiated fee of not more than \$100 for registration of commercial feeds.
3. Add a Subsection 050.01.h., inclusion of statements and promotion on company websites or other internet based customer interfaces into the definition of "labeling."

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule (if available), contact Kathryn Mink, Section Manager Feed, Fertilizer & Seed at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2012.

DATED this 17th day of May, 2012.

Brian J. Oakey,
Deputy Director
Idaho State Department of Agriculture

2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-1201
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 22-604, 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 July 18, 2012.

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 incorporate by reference information and updates contained in the 2013 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

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:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, 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 Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the fertilizer industry and all state and Federal fertilizer control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

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 July 25, 2012.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208)334-2170

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0612-1201

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2012~~3~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/publication_order_form.pdf. (~~3-29-12~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-29-12)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

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

DOCKET NO. 02-0613-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-108, Idaho Code.

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

Thursday -- August 9, 2012 -- 10:30 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change will be available on July 27, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by August 15, 2012.

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

All written comments must be directed to Mike Cooper and must be delivered on or before August 15, 2012. Comments can be sent via email to Mike.Cooper@agri.idaho.gov, or via mail to: Mike Cooper, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested parties may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on August 9, 2012.

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

1. Amending Section 004 to update definitions; and
2. Amending Section 150.01.b. to revise the testing method.

A draft copy will be available on July 27, 2012 from the contact information listed below.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Michael E. Cooper, Bureau Chief, Field Services at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 15, 2012.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd, P.O. Box 790

Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.14 - RULES GOVERNING ANNUAL BLUEGRASS (POA ANNUA)

DOCKET NO. 02-0614-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-2006, Idaho Code.

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

Tuesday -- July 17, 2012 -- 10:00 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change will be available on June 22, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by July 20, 2012.

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

All written comments must be directed to Michael E. Cooper and must be delivered on or before July 20, 2012. Comments can be sent via email to Mike.Cooper@agri.idaho.gov, or via mail to: Mike Cooper, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested parties may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on July 17, 2012.

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

Amending Section 200 - Rules Governing the Planting of Regulated Articles - to change the section title and allow for the use of a certificate of analysis in lieu of tags. Amending Section 300 - Application for Nursery Inspections - to allow for inspection by the Idaho Crop Improvement Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Michael E. Cooper, Bureau Chief, Field Services at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2012.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd., P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.16 - RULES GOVERNING HONEY STANDARDS

DOCKET NO. 02-0616-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-2808, Idaho Code.

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

Thursday -- August 9, 2012 -- 1:30 p.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change will be available on July 27, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by August 15, 2012.

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

All written comments must be directed to Mike Cooper and must be delivered on or before August 15, 2012. Comments can be sent via email to Mike.Cooper@agri.idaho.gov, or via mail to: Mike Cooper, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested persons may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on August 9, 2012, at 1:30 PM (MDT).

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

A rule in its entirety would be developed that would mirror existing standards adopted by other states relative to the identity, quality and labeling of honey. A draft copy will be available on July 27, 2012 from the contact information listed below.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Michael E. Cooper, Bureau Chief, Field Services at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 15, 2012.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd., PO Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.31 - NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

DOCKET NO. 02-0631-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-2403, Idaho Code.

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

Thursday -- July 19, 2012 -- 10:00 a.m. (MDT)

**Idaho State Department of Agriculture
Meeting Rooms A&B
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change will be available on July 6, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by July 24, 2012.

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

All written comments must be directed to Dan Safford and must be delivered on or before July 24, 2012. Comments can be sent via email to dan.safford@agri.idaho.gov, or via mail to: Dan Safford, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested persons may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on July 19, 2012 at 10:00 a.m. (MDT).

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

The scope and purpose of the program will be clarified to address all possible activities of certified forage and straw products and to add that these products are intended for use on Idaho public lands. A color of certification twine that is no longer used will be deleted from the rules. Add the year on forage tags. Correct typographical errors of plant scientific names and amend several sections to correct a contradiction of when transit certificates need to be issued.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Dan Safford at (208) 332-8592, or via email at dan.safford@agri.idaho.gov.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCT RULES

DOCKET NO. 02-0633-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

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 22-1103, Idaho Code.

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

Monday -- July 16, 2012 -- 1:00 p.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change will be available on June 11, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by July 20, 2012.

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

All written comments must be directed to Brandon Lamb and must be delivered on or before July 20, 2012. Comments can be sent via email to Brandon.Lamb@agri.idaho.gov, or via mail to: Brandon Lamb, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested persons may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on July 16, 2012 at 1:00 PM (MDT).

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking: A new updated Idaho certified organic seal for use on certified organic products is proposed along with a variant for approved materials. The new seals have fewer colors than the existing seal, and will be less expensive to reproduce.

The organic food industry and material suppliers to organic industry are in need of a published list of branded materials approved for organic production, processing, and handling. Material suppliers are very interested in having third party approval for marketing purposes. Certified organic operations are interested in the material list to help them identify and use materials approved by the Idaho Organic Program.

FEE SUMMARY: The following is a specific description of the proposed new fee: To establish an application fee, inspection fee, and fees associated with the production of the published list of branded materials, and to establish annual fees for organic material suppliers to remain on the published list.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact on the state general fund due to this rulemaking. Organic Program Food Fund 0332-10 will have increased revenues estimated at \$10,000 to \$20,000 per year.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING A COPY: For assistance on technical questions concerning the negotiated rulemaking or to obtain a copy of the draft rule, contact Brandon Lamb, Idaho Organic Food Program Manager, 208-332-8675, or at Brandon.Lamb@agri.idaho.gov. A full copy of the draft rule is posted at www.agri.idaho.gov.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture

2270 Old Penitentiary Road
P.O. Box 790, Boise, ID 83701

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.35 - RULES CONCERNING ROUGH BLUEGRASS (*POA TRIVIALIS*)

DOCKET NO. 02-0635-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-2006, Idaho Code.

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

Tuesday -- July 17, 2012 -- 11:00 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change will be available on June 22, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by July 20, 2012.

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

All written comments must be directed to Michael E. Cooper and must be delivered on or before July 20, 2012. Comments can be sent via email to Mike.Cooper@agri.idaho.gov, or via mail to: Mike Cooper, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested persons may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on July 17, 2012, at 11:00 AM (MDT).

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

Amending Section 101 - Qualification of Regulated Articles for Quarantine Release - to allow for the use of a certificate of analysis in lieu of tags. Amending Section 102 - Rough Bluegrass Quarantine Inspections - to allow for inspection by the Idaho Crop Improvement Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Michael E. Cooper, Bureau Chief, Field Services at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2012.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd., P.O. Box 790

Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-1201

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 22-2204, 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 July 18, 2012.

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 incorporate by reference information and updates contained in the 2013 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

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: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, 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 Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the fertilizer industry and all state and Federal fertilizer control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

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 July 25, 2012.

DATED this 8th day of June, 2012.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208)334-2170

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0641

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The terms, ingredient definitions and policies as published in the “2012~~3~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/publication_order_form.pdf. (~~3-29-12~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-29-12)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

**08.01.11 - REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS**

DOCKET NO. 08-0111-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 33-105, 33-2402, and 33-2403, Idaho Code.

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

A meeting will be scheduled based on input received from interested parties. If you wish to participate in the meeting please contact Harv Lyter, Registration Program Coordinator at (208)332-1587 or harv.lyter@osbe.idaho.gov.

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

To participate in the negotiated rulemaking please submit written comments to Tracie Bent at tracie.bent@osbe.idaho.gov, or you may mail comment to: Idaho State Board of Education, Attn: Tracie Bent, 650 W State St, PO Box 83720, Boise, Idaho 83720-0037.

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

The State Board of Education will be considering changes to the registration amount calculation, the surety bond calculation and method for proprietary schools, defining the accreditation timelines for new start programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule once available, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208)332-1582.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2012.

DATED this 9th day of June, 2012.

Tracie Bent
Chief Planning and Policy Officer
Idaho State Board of Education
650 W State Street
PO Box 83720
Boise, ID 83720-0037
Phone: (208)332-1582
Fax: (208)334-2632

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1201

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.

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 July 18, 2012.

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:

Subsection 023.10 Endorsements E - L Health (6-12 or K-12) - This rule clarification is in response to a simple oversight. The 2011 approved language currently indicates that all candidates, regardless of the endorsement grade level, shall take an elementary health methods course. The intent of the endorsement is that only candidates seeking the K-12 option shall take an elementary methods course, which this change reflects.

Subsection 024.07 Endorsements M - Z Physical Education (PE) (6-12 or K-12) - This rule clarification is in response to a simple oversight. The language currently indicates that all candidates, regardless of the endorsement grade level, shall take an elementary PE methods course. The intent of the endorsement, and common practice since its approval in 2007, has been that only candidates seeking the K-12 option shall take an elementary PE methods course, which this change reflects.

Subsection 026.03 Director of Special Education and Related Services Endorsement (Pre-K-12) - The Standards Committee of the Professional Standards Commission discussed feedback received in response to a recent Idaho Association of School Administrators (IASA) sponsored survey regarding the current Director of Special Education endorsement. Currently, the endorsement allows educators without direct special education experience to become endorsed as Directors of Special Education. Approximately 68 percent (68%) of special education staff and administrators surveyed agreed that Special Education Directors should have at least 3 to 4 years of direct experience serving special needs students.

The Professional Standards Commission approved the Standards Committee's recommendation to request a minimum of 3 years of classroom experience working with special needs populations in order to qualify for the Special Education Director endorsement and, therefore, requested that Department of Education staff clarify the rule to reflect this requirement and submit it to the State Board of Education for final approval.

Subsection 028.02 Generalist Endorsement (K-12) - Department of Education staff recently noted that the current rule for the special education Generalist K-12 endorsement does not specify that an internship is required, but it is implied, and is common practice. The Standards Committee of the Professional Standards Commission requested that State Department staff add the necessary clarifying language "field work to include an internship and student teaching in a special education setting" to the Generalist K-12 endorsement language in Subsection 08.02.02.028.02.

The full Commission approved the Standards Committee's recommendation to clarify the field work requirement and, therefore, requested that Department of Education staff clarify the rule to reflect this requirement and submit it to the State Board of Education for final approval.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no imposed or increased fee associated with these changes.

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: These changes result in no fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because:

This rule clarification is in response to a simple oversight. The language currently indicates that all candidates, regardless of the endorsement grade level, shall take an elementary PE methods course. The intent of the endorsement, and common practice since its approval in 2007, has been that only candidates seeking the K-12 option shall take an elementary PE methods course, which this change reflects.

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 Christina Linder at clinder@sde.idaho.gov or phone 208-332-6886.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2012.

DATED this 15th day of June, 2012.

Tom Luna
Idaho Superintendent of Public Instruction
State Department of Education
650 West State Street
P.O. Box 83720
Boise, Idaho 83720-0027
telephone: 208-332-6800
fax: 208-334-2228

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0202-1201

023. ENDORSEMENTS E - L.

01. Earth Science (6-12). Twenty (20) semester credit hours including course work in each of the following: Earth Science, Astronomy, and Geology. (4-11-06)

02. Economics (6-12). Twenty (20) semester credit hours to include a minimum of three (3) semester credit hours of micro-economics, a minimum of three (3) semester credit hours of macro-economics, and a minimum of six (6) semester credit hours of Personal Finance/Consumer Economics/Economics Methods. Remaining course work may be selected from economics and finance course work in one (1) or more of the following areas: Agriculture Science and Technology, Business Education, Economics, Family and Consumer Science, or Marketing Education. (4-11-06)

03. English (6-12). Twenty (20) semester credit hours, including three (3) semester credit hours in Linguistics/Grammar, three (3) semester credit hours in American Literature, three (3) semester credit hours in English Literature, six (6) semester credit hours in Advanced Composition, excluding the introductory sequence designed to meet general education requirements. Remaining credits must be completed in the English Department,

and must include some course work in Writing Methods for Teachers of Secondary Students. (3-16-04)

04. English as a New Language (ENL) (K-12). Twenty (20) semester credit hours to include four (4) semester credit hours in a modern language other than English; three (3) semester credit hours in Cultural Diversity; three (3) semester credit hours in ENL Methods; three (3) semester credits in Linguistics; three (3) semester credit hours in Foundations, Federal and State Law, Theory, Testing/Identification of Limited English Proficient Students; one (1) semester credit in ENL Practicum or Field Experience; and three (3) semester credit hours in an ENL related elective. (3-29-12)

05. Family and Consumer Science (6-12). (3-16-04)

a. Thirty (30) semester credit hours to include coursework in each of the following: Child/Human Development; Human/Family Relations; Directed Laboratory Experience in Childcare; Clothing and Textiles, Cultural Dress, Fashion Merchandising, or Design Nutrition; Food Preparation, Food Production, or Culinary Arts; Housing, Interior Design, Home Management, or Equipment; Consumer Economics or Family Resource Management; Introduction to Family Consumer Sciences; and, Integration of Family Consumer Sciences or Family Consumer Science Methods. (3-16-04)

b. Occupational Teacher Preparation as provided in Sections 034 through 038. (3-16-04)

06. Foreign Language (6-12 or K-12). Twenty (20) semester credit hours in a specific foreign language including course work in two (2) or more of the following areas: Grammar, Conversation, Composition, Culture, and Literature; and course work in Foreign Language Methods. To obtain an endorsement in a specific foreign language (K-12), applicants holding a Secondary Certificate must complete an elementary methods course. (4-11-06)

07. Geography (6-12). Twenty (20) semester credit hours including course work in Cultural Geography and Physical Geography, and a maximum of six (6) semester credit hours in World History Survey. Remaining semester credit hours must be selected from Geography. (4-11-06)

08. Geology (6-12). Twenty (20) semester credit hours in the area of Geology. (3-16-04)

09. Gifted and Talented (K-12). Twenty (20) semester credit hours, to include a minimum of three (3) semester credits hours in each of the following: Foundations of Gifted and Talented Education; Creative/Critical Thinking Skills for Gifted and Talented Students; Social and Emotional Needs of Gifted and Talented Students; Curriculum and Instruction for Gifted and Talented Students; and Practicum and Program Design for Gifted and Talented Education. Remaining course work must be in the area of gifted education. (5-8-09)

10. Health (6-12 or K-12). Twenty (20) semester credit hours to include course work in Organization/Administration/Planning of a School Health Program; Health and Wellness; Secondary Methods of Teaching Health; ~~Elementary methods of Teaching Health;~~ Mental/Emotional Health; Nutrition; Human Sexuality; Substance Use and Abuse. Remaining semester credits must be in health-related course work. To obtain a Health K-12 endorsement, applicants must complete an elementary Health methods course. (4-7-11)(____)

11. History (6-12). Twenty (20) semester credit hours to include a minimum of six (6) semester credit hours of U.S. History Survey and a minimum of six (6) semester credit hours of World History Survey. Remaining course work must be in History. Course work may include three (3) semester credit hours in American Government. (4-11-06)

12. Humanities (6-12). An endorsement in English, History, Music, Visual Art, Drama, or Foreign Language and twenty (20) semester credit hours in one of the following areas or ten (10) semester credit hours in each of two (2) of the following areas: Literature, Music, Foreign Language, Humanities Survey, History, Visual Art, Philosophy, Drama, Comparative World Religion, Architecture, and Dance. (4-11-06)

13. Journalism (6-12). Follow one (1) of the following options: (3-16-04)

a. Option I: Twenty (20) semester credit hours to include a minimum of sixteen (16) semester credit

hours in Journalism and four (4) semester credit hours in English. (3-16-04)

b. Option II: Possess an English endorsement with a minimum of six (6) semester credit hours in Journalism. (3-16-04)

14. Library Media Specialist (K-12). Twenty (20) semester credit hours in the field of Education Media or Library Science, including a minimum of: (5-8-09)

a. Collection Development/Materials Selection; (5-8-09)

b. Literature for Youth or Children; (5-8-09)

c. Organization of Information (Cataloging and Classification); (5-8-09)

d. School Library Administration/Management; and (5-8-09)

e. Library Information Technologies and Information Literacy. (5-8-09)

15. Literacy (K-12). Twenty (20) semester credit hours in the area of Literacy including a minimum of three (3) semester credit hours in each of the following areas: Foundations of Reading or Developmental Reading; Reading in the Content Area; Literature for Youth; Psycholinguistics or Language Development; Corrective/Diagnostic/Remedial Reading; and Teaching Writing. To obtain a Literacy endorsement, applicants must complete the Idaho Comprehensive Literacy Course or the Idaho Comprehensive Literacy Assessment. Remaining credits must be taken in the area of teaching literacy. (5-8-09)

024. ENDORSEMENTS M - Z.

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

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

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

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

03. Mathematics (6-12). Twenty (20) semester credit hours including course work in each of the following areas: Geometry, Linear Algebra, Discrete Mathematics, Probability and Statistics, and a minimum of three (3) semester credit hours of Calculus. Statistics course work may be taken from a department other than the mathematics department. (4-11-06)

04. Music (6-12 or K-12). Twenty (20) semester credit hours leading toward competency as defined by Idaho Standards for Music Teachers to include course work in the following: Theory and Harmony; Aural Skills, Music History; Conducting; Applied Music; and Piano Proficiency (Class Piano or Applied Piano), and Secondary Music Methods/Materials. To obtain a Music K-12 endorsement, applicants must complete an elementary music methods course. (4-7-11)

05. Natural Science (6-12). Follow one (1) of the following options: (4-7-11)

a. Option I: Must hold an existing endorsement in one of the following areas: Biological Science, Chemistry, Earth Science, Geology, or Physics; and complete a total of twenty-four (24) semester credit hours as follows: (4-7-11)

i. Existing Biological Science Endorsement. Minimum of eight (8) semester credit hours in each of

the following areas: Physics, Chemistry, and Earth Science or Geology. (4-7-11)

ii. Existing Physics Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Chemistry, and Earth Science or Geology. (4-7-11)

iii. Existing Chemistry Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Earth Science or Geology. (4-7-11)

iv. Existing Earth Science or Geology Endorsement. Minimum of eight (8) semester credit hours in each of the following areas: Biology, Physics, and Chemistry. (4-7-11)

b. Option II: Must hold an existing endorsement in Agriculture Science and Technology; and complete twenty (20) semester credit hours with at least four (4) semester credit hours in each of the following areas: Biology, Chemistry, Earth Science or Geology, and Physics. (4-7-11)

06. Physics (6-12). Twenty (20) semester credit hours in the area of Physics. (3-16-04)

07. Physical Education (PE) (6-12 or K-12). Twenty (20) semester credit hours to include course work in each of the following areas: Sport, Movement, and Outdoor Skills; ~~Elementary PE Methods~~; Secondary PE Methods; Student Evaluation in PE; Administration of a PE Program; Safety and Prevention of Injuries; Fitness and Wellness; PE for Special Populations; Exercise Physiology; Kinesiology/Biomechanics; Sports Psychology or Sociology; Motor Behavior; and Current CPR and First Aid Certification. To obtain a PE K-12 endorsement, applicants must complete an elementary PE methods course. (3-30-07)()

08. Physical Education/Health. Must have an endorsement in both physical education and health. (3-30-07)

09. Physical Science (6-12). Twenty (20) semester credit hours in the area of physical science to include a minimum of eight (8) semester credit hours in each of the following: Chemistry and Physics. (3-16-04)

10. Psychology. Twenty (20) semester credit hours in the area of Psychology. (3-16-04)

11. Social Studies (6-12). Must have an endorsement in History, American Government/Political Science, Economics, or Geography plus a minimum of twelve (12) semester credit hours in each of the remaining core endorsements areas: History, Geography, Economics, and American Government/Political Science. (3-29-10)

12. Sociology (6-12). Twenty (20) semester credit hours in the area of Sociology. (3-16-04)

13. Sociology/Anthropology (6-12). Twenty (20) semester credit hours including a minimum of six (6) semester credit hours in each of the following: Anthropology and Sociology. (3-16-04)

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

026. ADMINISTRATOR CERTIFICATE.

Every person who serves as a superintendent, a secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or is assigned administrative duties over and above those

commonly assigned to teachers, is required to hold an Administrator Certificate. The certificate may be endorsed for service as a school principal, a superintendent, or a director of special education and related services. Assistant superintendents are required to hold the Superintendent endorsement. Assistant principals or vice-principals are required to hold the Principal endorsement. Applicants for the Director of Special Education and Related Services endorsement will hold that endorsement on an Administrator Certificate. Possession of an Administrator Certificate does not entitle the holder to serve as a teacher at a grade level for which the educator is not qualified or certificated. All administrator certificates require candidates to meet the following competencies of the Idaho Foundation Standards for School Administrators: Visionary and Strategic Planning, Instructional Leadership, Management and Organizational Leadership, Family and Community Partnerships, Professional and Ethical Leadership, and Governance and Legal Leadership. (3-30-07)

01. School Principal Endorsement (Pre-K-12). To be eligible for an Administrator Certificate endorsed for School Principal Pre-K-12, a candidate must have satisfied the following requirements: (3-16-04)

- a.** Hold a master's degree from an accredited college or university. (3-16-04)
- b.** Have four (4) years of full-time certificated experience working with students, Pre-K-12, while under contract in an accredited school setting. (3-30-07)
- c.** Have completed an administrative internship in a state-approved program, or have one (1) year of experience as an administrator in grades Pre-K-12. (3-30-07)
- d.** Provide verification of completion of a state-approved program of at least thirty (30) semester credit hours, forty-five (45) quarter credit hours, of graduate study in school administration for the preparation of school principals at an accredited college or university. This program shall include the competencies of the Idaho Foundation Standards for School Administrators: Visionary and Strategic Planning, Instructional Leadership, Management and Organizational Leadership, Family and Community Partnerships, Professional and Ethical Leadership, and Governance and Legal Leadership. (3-30-07)
- e.** An institutional recommendation is required for a School Principal Pre-K-12 Endorsement. (3-16-04)

02. Superintendent Endorsement. To be eligible for an Administrator Certificate with a Superintendent endorsement, a candidate must have satisfied the following requirements: (3-16-04)

- a.** Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university. (3-16-04)
- b.** Have four (4) years of full-time certificated/licensed experience working with Pre-K-12 students while under contract in an accredited school setting. (3-30-07)
- c.** Have completed an administrative internship in a state-approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent in grades Pre-K-12. (3-30-07)
- d.** Provide verification of completion of an approved program of at least thirty (30) semester credit hours, or forty-five (45) quarter credit hours, of post-master's degree graduate study for the preparation of school superintendents at an accredited college or university. This program in school administration and interdisciplinary supporting areas shall include the competencies in Superintendent Leadership, in addition to the competencies in the Idaho Foundation Standards for School Administrators: Visionary and Strategic Planning, Instructional Leadership, Management and Organizational Leadership, Family and Community Partnerships, Professional and Ethical Leadership, and Governance and Legal Leadership. (3-30-07)
- e.** An institutional recommendation is required for a School Superintendent Endorsement. (3-16-04)

03. Director of Special Education and Related Services Endorsement (Pre-K-12). To be eligible for an Administrator Certificate endorsed for Director of Special Education and Related Services Pre-K-12, a

candidate must have satisfied all of the following requirements: (3-16-04)

- a. Hold a master's degree from an accredited college or university. (3-16-04)
- b. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting. A minimum of three (3) years of classroom experience working with special needs populations is required. (~~3-16-04~~)()
- c. Obtain college or university verification of demonstrated the competencies of the Idaho Foundation Standards for School Administrators: Visionary and Strategic Planning, Instructional Leadership, Management and Organizational Leadership, Family and Community Partnerships, Professional and Ethical Leadership, and Governance and Legal Leadership. (3-30-07)
- d. Obtain college or university verification of demonstrated competencies in the following areas, in addition to the competencies in the Idaho Foundation Standards for School Administrators: Concepts of Least Restrictive Environment; Post-School Outcomes and Services for Students with Disabilities Ages Three (3) to Twenty-one (21); Collaboration Skills for General Education Intervention; Instructional and Behavioral Strategies; Individual Education Programs (IEPs); Assistive and Adaptive Technology; Community-Based Instruction and Experiences; Data Analysis for Instructional Needs and Professional Training; Strategies to Increase Program Accessibility; Federal and State Laws and Regulations and School District Policies; Resource Advocacy; and Technology Skills for Referral Processes, and Record Keeping. (3-30-07)
- e. Have completed an administrative internship/practicum in the area of administration of special education and related services. (3-16-04)
- f. An institutional recommendation is required for Director of Special Education and Related Services Pre-K-12 Endorsement. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

028. EXCEPTIONAL CHILD CERTIFICATE.

Holders of this certificate work with children who have been identified as having an educational impairment. (3-16-04)

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

02. Generalist Endorsement (K-12). The Generalist K-12 endorsement is non-categorical and allows one (1) to teach in any K-12 special education setting. This endorsement is valid for five (5) years. Six (6) credit hours are required every five (5) years for renewal. Regardless of prior special education experience, all initial applicants must provide an institutional recommendation that an approved special education program has been completed, with field work to include an internship and student teaching in a special education setting. To be eligible for an Exceptional Child Certificate with a Generalist K-12 endorsement, a candidate must have satisfied the following requirements: (~~3-16-04~~)()

- a. Completion of a baccalaureate degree from an accredited college or university. (3-16-04)
- b. Completion, in an Idaho college or university, of a program in elementary, secondary, or special education currently approved by the Idaho State Board of Education, or completion, in an out-of-state college or university, of a program in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed. (3-16-04)
- c. Completion of thirty (30) semester credit hours in special education, or closely related areas, as part of an approved special education program. (3-16-04)

d. Each candidate must have a qualifying score on an approved core content assessment and a second assessment related to the specific endorsement requested. (3-16-04)

03. Early Childhood Special Education Endorsement (Pre-K-3). The Early Childhood Special Education (Pre-K-3) endorsement is non-categorical and allows one to teach in any Pre-K-3 special education setting. This endorsement may only be added to the Standard Exceptional Child Certificate in conjunction with the Generalist K-12 endorsement and is valid for five (5) years. Six (6) credit hours are required every five (5) years for renewal. To be eligible for an Exceptional Child Certificate with an Early Childhood Special Education (Pre-K-3) endorsement, a candidate must have satisfied the following requirements: (4-7-11)

a. Completion of a program of a minimum of twenty (20) semester credit hours in the area of Early Childhood Education to include course work in each of the following areas: Child development and behavior with emphasis in cognitive-language, physical, social and emotional areas, birth through age eight (8); Curriculum and program development for young children ages three to eight (3-8); Methodology: planning, implementing and evaluating environments and materials for young children ages three to eight (3-8); Guiding young children's behavior: observing, assessing and individualizing ages three to eight (3-8); Identifying and working with atypical young children ages three to eight (3-8) Parent-teacher relations; and, Field work to include an internship and student teaching at the Pre-K - 3 grades. (4-7-11)

04. Hearing Impairment Endorsement (K-12). Completion of a minimum of thirty (30) semester credit hours in the area of hearing impairment. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Hearing Impaired endorsement, a candidate must have satisfied the following requirements: (4-11-06)

a. Completion of a baccalaureate degree from an accredited college or university; (4-11-06)

b. Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or (4-11-06)

c. Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; (4-11-06)

d. Completion of a program of a minimum of thirty (30) semester credit hours in the area of Hearing Impairment. Must receive an institutional recommendation specific to this endorsement from an accredited college or university. (4-11-06)

05. Visual Impairment Endorsement (K-12). Completion of a program of a minimum of thirty (30) semester credit hours in the area of visual impairment. An institutional recommendation specific to this endorsement is required. To be eligible for an Exceptional Child Certificate with a Visually Impaired endorsement, a candidate must have satisfied the following requirements: (4-11-06)

a. Completion of a baccalaureate degree from an accredited college or university; (4-11-06)

b. Completion of a program from an Idaho college or university in elementary, secondary, or special education currently approved by the Idaho State Board of Education; or (4-11-06)

c. Completion of a program from an out-of-state college or university in elementary, secondary, or special education currently approved by the state educational agency of the state in which the program was completed; (4-11-06)

d. Completion of a program of a minimum of thirty (30) semester credit hours in the area of Visual Impairment. Must receive an institutional recommendation specific to this endorsement from an accredited college or university. (4-11-06)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.04 - RULES GOVERNING PUBLIC CHARTER SCHOOLS

DOCKET NO. 08-0204-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 33-105, 33-5203, and 33-5210(4)(e), Idaho Code.

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

A meeting will be scheduled based on input received from interested parties. If you wish to participate in the meeting please contact Tamara Baysinger, Director of the Public Charter School Commission at (208)332-1583 or tamara.baysinger@osbe.idaho.gov.

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

To participate in the negotiated rulemaking please submit written comments to Tracie Bent at tracie.bent@osbe.idaho.gov or you may mail comment to: Idaho State Board of Education, Attn: Tracie Bent, 650 W State St, PO Box 83720, Boise, Idaho 83720-0037.

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

The State Board of Education will be considering changes to IDAPA 08.02.04, "Rules Governing Public Charter Schools," intended to improve administrative efficiency and update the rule to correspond with previous statutory amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule once available, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208)332-1582.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2012.

DATED this 9th day of June, 2012.

Tracie Bent
Chief Planning and Policy Officer
Idaho State Board of Education
650 W State Street
PO Box 83720
Boise, ID 83720-0037
Phone: (208)332-1582
Fax: (208)334-2632

IDAPA 08 - STATE BOARD OF EDUCATION

08.03.01 - RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION

DOCKET NO. 08-0301-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 33-105, and 33-5213, Idaho Code.

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

A meeting will be scheduled based on input received from interested parties. If you wish to participate in the meeting please contact Tamara Baysinger, Director of the Public Charter School Commission at (208)332-1583 or tamara.baysinger@osbe.idaho.gov.

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

To participate in the negotiated rulemaking please submit written comments to Tracie Bent at tracie.bent@osbe.idaho.gov or you may mail comment to: Idaho State Board of Education, Attn: Tracie Bent, 650 W State St, PO Box 83720, Boise, Idaho 83720-0037.

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

The State Board of Education will be considering changes to IDAPA 08.03.01, "Rules of the Public Charter School Commission," intended to improve administrative efficiency and update the rule to correspond with previous statutory amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule once available, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208)332-1582.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2012.

DATED this 9th day of June, 2012.

Tracie Bent
Chief Planning and Policy Officer
Idaho State Board of Education
650 W State Street
PO Box 83720
Boise, ID 83720-0037
Phone: (208)332-1582
Fax: (208)334-2632

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

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 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 Section 54-1208, 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:

House Bill No. 374 of the 2012 session of the Idaho Legislature restricts the assignment to examination for initial licensing or certification to Idaho residents with some exceptions, but residency is not defined in the statute. This rule defines that status.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, pages 53 through 55](#).

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 impact on either the General Fund of the State of Idaho or the Dedicated Fund of the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David L. Curtis, P.E. at (208) 373-7210.

DATED this 7th day of June, 2012.

David L. Curtis, P.E., Executive Director
Board of Licensure of Professional Engineers
and Professional Land Surveyors
1510 E. Watertower St., Suite 110
Meridian, ID 83642
Phone (208) 373-7210
Fax (208) 373-7213

DOCKET NO. 10-0101-1201 - 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 12-5, May 2, 2012, pages 53 through 55](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2013 Idaho State Legislature for final adoption.**

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

10.01.01 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 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 Section 54-1208, 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:

Docket No. 10-0104-1101 inadvertently exempted permanent non-residents of the United States from compliance with the Rules of Continuing Professional Development. This Rule amendment would eliminate that inadvertent exemption.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 2, 2012 Idaho Administrative Bulletin, [Vol. 12-5, pages 56 through 58](#).

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 impact on either the General Fund of the State of Idaho or the Dedicated Fund of the Board.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David L. Curtis, P.E. at (208) 373-7210.

DATED this 7th day of June, 2012.

David L. Curtis, P.E.
Executive Director
Board of Licensure of Professional Engineers
and Professional Land Surveyors
1510 E. Watertower St., Suite 110
Meridian, ID 83642
Phone (208) 373-7210
Fax (208) 373-7213

DOCKET NO. 10-0104-1201 - 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 12-5, May 2, 2012, pages 56 through 58](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2013 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-1201

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 56-1013A and 56-1023, 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 July 18, 2012.

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 best protect the public's health and safety, the EMS Physician Commission is revising its Standards Manual that is incorporated by reference in this chapter of rules. This revision to rule will ensure that the most recent edition of the manual has the force and effect of law.

Also, the text of the rule chapter needs some minor amendments to align it with changes in the Standards Manual approved by the 2012 Legislature.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted and deemed not feasible because the content of the proposed updates to the EMS Physician Commission Standards Manual and to this chapter of rules already represents extensive input from stakeholders gathered during 2011 and early 2012.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2013-1, is being incorporated by reference into these rules to give it the force and effect of law and because republishing the document in the rule would be unduly cumbersome and expensive due to its length and format.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Wayne Denny at (208) 334-4000.

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 July 25, 2012.

DATED this 8th day of June, 2012.

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
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0202-1201

004. INCORPORATION BY REFERENCE.

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2012~~3~~-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained on the Internet at www.emspc.dhw.idaho.gov or from the EMS Bureau located at 650 W. State Street, Suite B-17, Boise, Idaho, 83702, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. (3-29-12)()

(BREAK IN CONTINUITY OF SECTIONS)

400. PHYSICIAN SUPERVISION IN THE OUT-OF-HOSPITAL SETTING.

01. Medical Supervision Required. In accordance with Section 56-1011, Idaho Code, licensed EMS personnel must provide emergency medical services under the supervision of a designated EMS medical director. (3-29-10)

02. Designation of EMS Medical Director. The EMS agency must designate a physician for the medical supervision of licensed EMS personnel affiliated with the EMS agency. (3-29-10)

03. Delegated Medical Supervision of EMS Personnel. The EMS medical director can designate other physicians to supervise the licensed EMS personnel in the temporary absence of the EMS medical director. (3-29-10)

04. Direct Medical Supervision by Physician Assistants and Nurse Practitioners. The EMS medical director can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of licensed EMS personnel under the following conditions: (3-29-10)

a. A designated physician is not present in the anticipated receiving health care facility; and (4-2-08)

b. The Nurse Practitioner, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the Nurse Practitioner; or (4-2-08)

c. The physician supervising the PA, as defined in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," authorizes the PA to provide direct (on-line) supervision; and (4-2-08)

d. The PA, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the PA related to supervision of EMS personnel. (4-2-08)

e. Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the EMS medical director. (4-2-08)

05. Indirect Medical Supervision by Non-Physicians. Non-physicians can assist the EMS medical director with indirect medical supervision of licensed EMS personnel. (3-29-10)

06. Medical Supervision Plan. The medical supervision of licensed EMS personnel must be provided in accordance with a documented medical supervision plan that includes direct, indirect, on-scene, educational, and proficiency standards components. The requirements for the medical supervision plan are found in the Idaho EMS Physician Commission Standards Manual that is incorporated by reference under Section 004 of these rules. (3-29-10)

07. Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau. The agency EMS medical director must ~~file~~ **submit** the medical supervision plan, ~~including identification of the EMS medical director and any designated clinicians~~ **within thirty (30) days of request** to the EMS Bureau in a form described in the standards manual. (4-2-08)()

a. ~~The agency EMS medical director must identify the designated clinicians to the EMS Bureau annually in a form described in the standards manual.~~ ()

b. The agency EMS medical director must inform the EMS Bureau of any changes in designated clinicians or ~~the medical supervision plan~~ **of a change in the agency medical director** within thirty (30) days of the change(s). (4-2-08)()

c. The EMS Bureau must provide the Commission with the medical supervision plans ~~annually and upon~~ **within thirty (30) days of** request. (4-2-08)()

d. The EMS Bureau must provide the Commission with the identification of EMS Medical directors and designated clinicians annually and upon request. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

500. PHYSICIAN SUPERVISION IN HOSPITALS AND MEDICAL CLINICS.

01. Medical Supervision Required. In accordance with Section 56-1011, Idaho Code, licensed EMS personnel must provide emergency medical services under the supervision of a designated hospital supervising physician or medical clinic supervising physician. (3-29-10)

02. Level of Licensure Identification. The licensed EMS personnel employed or utilized for delivery of services within a hospital or medical clinic, when on duty, must at all times visibly display identification specifying their level of EMS licensure. (3-29-10)

03. Credentialing of Licensed EMS Personnel in a Hospital or Medical Clinic. The hospital or medical clinic must maintain a current written description of acts and duties authorized by the hospital supervising physician or medical clinic supervising physician for credentialed EMS personnel and must submit the descriptions upon request of the Commission or the EMS Bureau. (3-29-10)

04. Notification of Employment or Utilization. The licensed EMS personnel employed or utilized for delivery of services within a hospital or medical clinic must report such employment or utilization to the EMS Bureau within thirty (30) days of engaging such activity. (3-29-10)

05. Designation of Supervising Physician. The hospital or medical clinic administration must designate a physician for the medical supervision of licensed EMS personnel employed or utilized in the hospital or medical clinic. (3-29-10)

06. Delegated Medical Supervision of EMS Personnel. The hospital supervising physician or medical clinic supervising physician can designate other physicians to supervise the licensed EMS personnel during the periodic absence of the hospital supervising physician or medical clinic supervising physician. (3-29-10)

07. Direct Medical Supervision by Physician Assistants and Nurse Practitioners. The hospital supervising physician, or medical clinic supervising physician can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of licensed EMS personnel under the following conditions: (3-29-10)

a. The Nurse Practitioner, when designated, must have a preexisting written agreement with the hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the Nurse Practitioner; or (4-2-08)

b. The physician supervising the PA, as defined in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," authorizes the PA to provide supervision; and (4-2-08)

c. The PA, when designated, must have a preexisting written agreement with the hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the PA related to supervision of EMS personnel. (4-2-08)

d. Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the hospital supervising physician or medical clinic supervising physician. (4-2-08)

08. On-Site Contemporaneous Supervision. Licensed EMS personnel will only provide patient care with on-site contemporaneous supervision by the hospital supervising physician, medical clinic supervising physician, or designated clinicians. (3-29-10)

09. Medical Supervision Plan. The medical supervision of licensed EMS personnel must be provided in accordance with a documented medical supervision plan. The hospital supervising physician or medical clinic supervising physician is responsible for developing, implementing, and overseeing the medical supervision plan, and must submit the plan(s) ~~upon~~ within thirty (30) days of request ~~of~~ by the Commission or the EMS Bureau. ~~(3-29-10)~~()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1203

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective dates of the temporary rule are September 28, 2011, and March 29, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized by Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code; also Title XIX (Medicaid) of the Social Security Act, Section 1905(bb)(2), and Section 56-209(g), 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 July 18, 2012.

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:

A revision to Title XIX, Section 1905(bb)(2) of the Social Security Act requires all State Medicaid Programs to cover tobacco cessation products and counseling for pregnant women and children. The Department submitted Docket No. 16-0309-1201 to cover tobacco cessation products for pregnant women and align this chapter with the federal mandate. The rulemaking was rejected by the 2012 Legislature under HCR 44 which directed the Department to promulgate a rule that considers the recommendations in "A Clinical Practice Guideline," published by the Public Health Service (PHS) in May 2008.

The guidelines on tobacco cessation treatment referenced by the legislature recommends strategies to assist clinicians in identifying and treating tobacco dependency. Idaho already covers the recommended strategies such as counseling, but under the current rules pharmacologic interventions are not available to Medicaid participants. The overview of the PHS clinical guidelines indicates that, "... although smoking cessation pharmaceuticals are not usually recommended for pregnant women, such use may be evaluated on a case-by-case basis, as determined by a woman and her physician."

Currently Medicaid rules do not cover this specific circumstance. These rule amendments will allow for coverage of tobacco cessation products for pregnant women and children when their physician determines that the products are necessary and safe for the health of the participant and the baby. Failure to align these rules with federal law may put the Department's federal matching funds at risk.

The Department also needs to make a change in the same Section of rules (662) to bring the rules into alignment with the Idaho Medicaid State Plan, and with Medicaid's reimbursement methodology defined in Section 56-209(g), Idaho Code. This rule change eliminates the reference to the unit dose fee for the dispensing of prescription medications.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is being done to comply with deadlines in amendments to governing law or federal programs, in particular, Title XIX, Section 1905(bb)(2) of the Social Security Act and Section 56-209(g), Idaho Code.

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:

It is anticipated that the cost of this change will be less than \$1000. The tobacco cessation products are rarely recommended for pregnant women and children, and all products would require prior authorization. During the past calendar year there have been no requests for these products. There is no fiscal impact associated with the removal of the reference to "unit dose fee."

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done in order to bring this chapter into compliance with Title XIX, Section 1905(bb)(2) of the Social Security Act and Section 56-209(g), Idaho Code. Negotiated rulemaking was not deemed feasible as this docket is a temporary rulemaking.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Matt Wimmer at (208) 364-1989.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2012.

DATED this 12th day of June, 2012.

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 TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 16-0309-1203**

662. PRESCRIPTION DRUGS: COVERAGE AND LIMITATIONS.

01. General Drug Coverage. The Department will pay for those prescription drugs not excluded by Subsection 662.04 of these rules which are legally obtainable by the order of a licensed prescriber whose licensing allows for the prescribing of legend drugs, as defined under Section 54-1705(28), Idaho Code, and which are deemed medically necessary as defined in Section 011 of these rules. (3-30-07)

02. Dispensing Fee. Dispensing Fee is defined as the cost of filling a prescription including direct pharmacy overhead, ~~and is one (1) of two (2) types~~ and is for all services pertaining to the usual practice of pharmacy, including: (3-30-07)(9-28-11)T

~~a. Regular Dose Fee. For services pertaining to the usual practice of pharmacy, including but not limited to: (3-30-07)~~

~~a. Interpretation, evaluation, compounding, and dispensing of prescription drug orders; (3-30-07)~~

- ~~ii~~**b.** Participation in drug selection; (3-30-07)
- ~~iii~~**c.** Drug administration; (3-30-07)
- ~~iv~~**d.** Drug regimen and research reviews; (3-30-07)
- ~~v~~**e.** Proper storage of drugs; (3-30-07)
- ~~vi~~**f.** Maintenance of proper records; (3-30-07)
- ~~vii~~**g.** Prescriber interaction; and (3-30-07)
- ~~viii~~**h.** Patient counseling. (3-30-07)

~~**b.** *Unit Dose Fee. Unit dose dispensing is defined as a system of providing individually sealed and appropriately labeled unit dose medication that ensures no more than a twenty-four (24) hour supply in any participant's drug tray at any given time. These drug trays, which contain a twenty-four (24) hour supply of medication, must be delivered to the facility at a minimum of five (5) days per week.* (3-30-07)~~

03. Limitations on Payment. Medicaid payment for prescription drugs will be limited as follows: (3-30-07)

a. Days' Supply. Medicaid will not cover any days' supply of prescription drugs that exceeds the quantity or dosage allowed by these rules. (3-30-07)

b. Brand Name Drugs. Medicaid will not pay for a brand name product that is part of the federal upper limit (FUL) or state maximum allowable cost (SMAC) listing when the physician has not specified the brand name drug to be medically necessary. (3-30-07)

c. Medication for Multiple Persons. When the medication dispensed is for more than one (1) person, Medicaid will only pay for the amount prescribed for the person or persons covered by Medicaid. (3-30-07)

d. No Prior Authorization. Medicaid will not pay for a covered drug or pharmacy item that requires, but has not received, prior authorization for Medicaid payment as required in Section 663 of these rules. (3-30-07)

e. Limitations to Discourage Waste. Medicaid may conduct drug utilization reviews and impose limitations for participants whose drug utilization exceeds the standard participant profile or disease management guidelines determined by the Department. (3-30-07)

04. Excluded Drug Products. The following categories and specific products are excluded from coverage by Medicaid: (3-30-07)

a. Non-Legend Medications. Federal legend medications that change to non-legend status, as well as their therapeutic equivalents regardless of prescription, status unless: (3-30-07)

i. They are included in Subsection 662.05.b. of these rules; or (3-30-07)

ii. The Director determines that non-legend drug products are covered based upon appropriate criteria including the following: safety, effectiveness, clinical outcomes of the drug in comparison with other therapeutically interchangeable alternative drugs, cost, and the recommendation of the Pharmacy And Therapeutics Committee. Therapeutically interchangeable is defined in Subsection 663.01.e. of these rules. (3-30-07)

b. Legend Drugs. Any legend drugs for which federal financial participation is not available. (3-30-07)

c. Diet Supplements. Diet supplements and weight loss products, except lipase inhibitors when prior authorized as outlined in Section 663 of these rules. (3-30-07)

- d.** Amphetamines and Related Products. Amphetamines and related products for cosmetic purposes or weight loss. Amphetamines and related products which are deemed to be medically necessary may be covered if prior authorized as outlined in Section 663 of these rules. (3-30-07)
- e.** Ovulation/Fertility Drugs. Ovulation stimulants, fertility drugs, and similar products. (3-30-07)
- f.** Impotency Aids. Impotency aids, either as medication or prosthesis. (3-30-07)
- g.** Tobacco Cessation Products. Nicotine chewing gum, sprays, inhalers, transdermal patches and related products, with the exception that both legend and non-legend tobacco cessation products will be covered for children and pregnant women when prescribed by their physician. ~~(3-30-07)~~(3-29-12)T
- h.** Medications Utilized for Cosmetic Purposes. Medications utilized for cosmetic purposes or hair growth. Prior authorization may be granted for these medications if the Department finds other medically necessary indications. (3-30-07)
- i.** Vitamins. Vitamins unless included in Subsection 662.05.a. of these rules. (3-30-07)
- j.** Dual Eligibles. Drug classes covered under Medicare, Part D, for Medicaid participants who are also eligible for Medicare. (3-30-07)
- 05. Additional Covered Drug Products.** Additional drug products will be allowed as follows: (3-30-07)
- a.** Therapeutic Vitamins. Therapeutic vitamins may include: (3-30-07)
- i.** Injectable vitamin B12 (cyanocobalamin and analogues); (3-30-07)
- ii.** Vitamin K and analogues; (3-30-07)
- iii.** Pediatric legend vitamin-fluoride preparations; (3-30-07)
- iv.** Legend prenatal vitamins for pregnant or lactating women; (3-30-07)
- v.** Legend folic acid; (3-30-07)
- vi.** Oral legend drugs containing folic acid in combination with Vitamin B12 and/or iron salts, without additional ingredients; ~~and~~ ~~(3-30-07)~~(3-29-12)T
- vii.** Legend vitamin D and analogues; ~~and~~ ~~(3-30-07)~~(3-29-12)T
- viii.** Legend smoking cessation products for pregnant women and children. (3-29-12)T
- b.** Prescriptions for Nonlegend Products. Prescriptions for nonlegend products may include:(3-30-07)
- i.** Insulin; (3-30-07)
- ii.** Disposable insulin syringes and needles; (3-30-07)
- iii.** Oral iron salts; ~~and~~ ~~(3-30-07)~~(3-29-12)T
- iv.** Permethrin; ~~and~~ ~~(3-30-07)~~(3-29-12)T
- v.** Smoking cessation products for pregnant women and children. (3-29-12)T
- 06. Limitation of Quantities.** Medication refills provided before at least seventy-five percent (75%) of

the estimated days' supply has been utilized are not covered, unless an increase in dosage is ordered. Days' supply is the number of days a medication is expected to last when used at the dosage prescribed for the participant. No more than a thirty-four (34) days' supply of continuously required medication is to be purchased in a calendar month as a result of a single prescription with the following exceptions: (3-30-07)

a. Doses of Medication. Up to one hundred (100) doses of medication may be dispensed, not to exceed a one hundred (100) day supply for: (3-30-07)

i. Cardiac glycosides; (3-30-07)

ii. Thyroid replacement hormones; (3-30-07)

iii. Prenatal vitamins; (3-30-07)

iv. Nitroglycerin products - oral or sublingual; (3-30-07)

v. Fluoride and vitamin/fluoride combination products; and (3-30-07)

vi. Nonlegend oral iron salts. (3-30-07)

b. Oral Contraceptive Products. Oral contraceptive products may be dispensed in a quantity sufficient for one (1), two (2), or three (3) cycles. (3-30-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1204

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized by Sections 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code; also House Bill 609 (2012).

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 July 18, 2012.

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

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

Rule changes are being made to bring this chapter into alignment with the changes made to Section 56-255(5)(c), Idaho Code, as amended under House Bill 609 (2012). Section 56-255(5)(c), Idaho Code (as amended), now states that "participants on the aged and disabled (A&D) waiver and the developmental disability (DD) waiver shall have access to dental services that reflect evidence-based practice." The Department is adding dental benefits to these two waivers to comply with the new state law, and revise the rules to reflect these changes.

House Bill 609 also amended Section 56-264(2)(6), Idaho Code, to allow concurrent skill training by mental health providers and developmental disability providers, so long as the mental health skills training relates to the mental illness and is provided by professionals who possess mental health expertise, and the training provided by the developmental disability provider relates to the developmental disability. These services may not be duplicative of each other. The Department is aligning the rules regarding skill training with the changes in the law.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is being done to comply with deadlines in amendments to governing law or federal programs, in particular, House Bill 609 (2012).

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:

Dental benefits will have an estimated fiscal impact of \$600,000 to the state general fund. Skill training will have an estimated fiscal impact of \$900,000 to the state general fund. The net cost to the state general fund is projected to be \$1,500,000.

Note: HB 609 provided for these funds and they are included in the SFY 2013 budget for the Division of Medicaid.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done in order to bring this chapter into compliance with House Bill 609 (2012). Negotiated rulemaking was not deemed feasible as this docket is a temporary rulemaking.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark Wasserman at (208) 287-1156.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2012.

DATED this 8th day of June, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 16-0310-1204**

082. DENTAL SERVICES: PARTICIPANT ELIGIBILITY.

Children, adults, and pregnant women on Medicaid's Pregnant Woman (PW) Program who meet the eligibility criteria for Medicaid's Enhanced Plan are eligible for Idaho Smiles dental benefits described in Section 083 of these rules. Adults who are eligible for Medicaid's HCBS Aged and Disabled (A&D) Waiver or Developmental Disabilities (DD) Waiver are eligible for Idaho Smiles adult dental benefits and additional dental services described in Section 326.09 and Section 703.13 of these rules. Participants who are over age twenty-one (21), who are eligible for both Medicare A and Medicare B, and who have chosen to enroll in a Medicare/Medicaid Coordinated Plan (MMCP) under IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits," Section 100, receive dental benefits from the MMCP insurance carrier and not from Idaho Smiles. ~~(3-29-12)~~(7-1-12)T

083. DENTAL SERVICES: COVERAGE AND LIMITATIONS.

Some covered dental services may require authorization from the Idaho Smiles contractor. (3-29-12)

01. Dental Coverage for Children. Children are covered for dental services that include: (3-29-12)

a. Preventative and problem-focused exams, diagnostic, restorative, endodontic, periodontic, prosthodontic, and orthodontic treatments, dentures, crowns and oral surgery; (3-29-12)

b. Other dental services that are determined medically necessary by the Department, as required by the Early and Periodic Screening and Diagnostic Testing (EPSDT) guidelines specified in Section 1905(r) of the Social Security Act, are also covered. (3-29-12)

02. Children's Orthodontics Limitations. Orthodontics are limited to children who meet the Enhanced Plan eligibility requirements, and the Idaho Medicaid Handicapping Malocclusion Index as evaluated by the state Medicaid dental consultant and the dental insurance contractor's dental consultant. The Malocclusion Index is found in Appendix A of these rules. (3-29-12)

03. Dental Coverage and Limitations for Adults. Adults who are not pregnant and who are not

covered under the A&D or DD Waivers are limited to the dental services coverage using the Current Dental Terminology (CDT) codes listed in the following table:

TABLE 083.03 - ADULT DENTAL SERVICES CODES	
Dental Code	Description
D0140	Limited oral evaluation. Problem focused
D0220	Intraoral periapical film
D0230	Additional intraoral periapical films
D0330	Panoramic film
D7140	Extraction
D7210	Surgical removal of erupted tooth
D7220	Removal of impacted tooth, soft tissue
D7230	Removal of impacted tooth, partially bony
D7240	Removal of impacted tooth, completely bony
D7241	Removal of impacted tooth, with complications
D7250	Surgical removal of residual tooth roots
D7260	Oroantral fistula closure
D7261	Primary closure of sinus perforation
D7285	Biopsy of hard oral tissue
D7286	Biopsy of soft oral tissue
D7450	Excision of malignant tumor <1.25 cm
D7451	Excision of malignant tumor >1.25 cm
D7510	Incision and drainage of abscess
D7511	Incision and drainage of abscess, complicated
D9110	Minor palliative treatment of dental pain
D9220	Deep sedation/anesthesia first 30 minutes
D9221	Regional block anesthesia
D9230	Analgesia, anxiolysis, nitrous oxide
D9241	IV conscious sedation first 30 minutes
D9242	IV conscious sedation each additional 15 minutes
D9248	Non IV conscious sedation
D9420	Hospital call
D9610	Therapeutic parenteral drug single administration
D9630	Other drugs and/or medicaments by report

~~(3-29-12)~~(7-1-12)T

04. Dental Coverage for Pregnant Women. Pregnant women on Medicaid’s Basic, Enhanced, or PW

plans are covered for preventative and problem-focused exams, diagnostic, restorative, endodontic, periodontic, and oral surgery benefits. Specific information about pregnant women is available online at <http://www.healthandwelfare.idaho.gov/Medical/Medicaid/MedicalCare/DentalServices/tabid/696/Default.aspx>. (3-29-12)

05. Benefit Limitations. The dental insurance contractor may establish limitations and restrictions for benefits according to the terms of its contract with the Department. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

112. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.

To qualify for enhanced outpatient mental health services, a participant must obtain a comprehensive diagnostic assessment as described in Section 114 of these rules. The comprehensive diagnostic assessment for enhanced outpatient mental health services must include documentation of the medical necessity for each service to be provided. For partial care services, the comprehensive diagnostic assessment must also contain documentation that shows the participant is currently at risk for an out-of-home placement, further clinical deterioration that would lead to an out-of-home placement, or further clinical deterioration that would interfere with the participant's ability to maintain his current level of functioning. ~~Participants who receive skill training can only receive training from one (1) type of service, depending on their eligibility.~~ (3-29-12)(7-1-12)T

01. General Participant Eligibility Criteria. The medical record must have documented evidence of a history and physical examination that has been completed by a participant's primary care physician. This examination must be within the last twelve (12) months immediately preceding the initiation of mental health clinic services and annually thereafter. Providers must refer those participants who have not had a history and physical examination to their primary care provider for this service. Participants who are in crisis as described at Subsection 123.04 of this rule may receive mental health services prior to obtaining a history and physical examination. In order for a participant to be eligible for enhanced outpatient mental health services, the following criteria must be met and documented in the comprehensive diagnostic assessment: (5-8-09)

a. The service represents the least restrictive setting and other services have failed or are not appropriate for the clinical needs of the participant. (5-8-09)

b. The services can reasonably be expected to improve the participant's condition or prevent further regression so that the current level of care is no longer necessary or may be reduced. (4-2-08)

c. Participants identified in Subsections 112.01.c.i. through 112.01.c.iii. of this rule cannot participate in enhanced outpatient mental health services: (4-2-08)

i. Participants at immediate risk of self-harm or harm to others who cannot be stabilized; (4-2-08)

ii. Participants needing more restrictive care or inpatient care; and (4-2-08)

iii. Participants who have not fulfilled the requirements of Subsections 112.02 or 112.03 of these rules. (4-2-08)

02. Eligibility Criteria for Children. To be eligible for services, a participant under the age of eighteen (18) must have a serious emotional disturbance (SED). (5-8-09)

03. Eligibility Criteria for Adults. To be eligible for services, a participant must be eighteen (18) years or older and have a serious mental illness (SMI). (5-8-09)

04. Level of Care Criteria - Mental Health Clinics. To be eligible for mental health clinic services, a participant must meet the criteria as described in Subsections 112.04.a. and 112.04.b. of this rule. (4-2-08)

a. Children must meet Subsections 112.01 and 112.02 of this rule. (4-2-08)

b. Adults must meet Subsections 112.01 and 112.03 of this rule. (4-2-08)

05. Level of Care Criteria - Psychosocial Rehabilitation (PSR) Services for Children. (7-1-12)T

a. To be eligible for the PSR services of skill training and community reintegration, a child must meet the criteria of SED and Subsections 112.01 and 112.02 of this rule and must experience a substantial impairment in functioning. (7-1-12)T

b. The participant's comprehensive diagnostic assessment must clearly identify the participant's need for skill training services that target skill deficits caused by his mental health condition. The participant's record must contain documentation that collaboration has occurred with the participant's other service providers in order to prevent duplication of skill training treatment services. (7-1-12)T

c. A child's level and type of functional impairment must be documented in the medical record. The Child and Adolescent Functional Assessment Scale/Preschool and Early Childhood Functional Assessment Scale (CAFAS/PECFAS) instrument must be used to obtain the child's initial functional impairment score. Subsequent scores must be obtained at regular intervals in order to determine the child's change in functioning that occurs as a result of mental health treatment. (7-1-12)T

d. Items endorsed on the CAFAS/PECFAS must be supported by specific descriptions of the child's observable behavior in the comprehensive diagnostic assessment. Substantial impairment requires that the child score in the moderate range in at least two (2) subscales on the CAFAS/PECFAS. One (1) of the two (2) subscales must be from the following list: self-harmful behavior, moods/emotions, or thinking. (3-29-12)(7-1-12)T

~~a. Self harmful behavior;~~ (4-2-08)

~~b. Moods/Emotions; or~~ (4-2-08)

~~c. Thinking.~~ (4-2-08)

06. Level of Care Criteria - Psychosocial Rehabilitation (PSR) Services and Partial Care Services for Adults. (7-1-12)T

a. To be eligible for partial care services or the PSR services of skill training and community reintegration, an adult must meet the criteria of SPMI and Subsection 112.01 of this rule. In addition, the psychiatric disorder must be of sufficient severity to affect the participant's functional skills negatively, causing a substantial disturbance in role performance or coping skills in at least two (2) of the areas in Subsection 112.06.~~a.c.i.~~ through 112.06.~~a.c.viii.~~ of this rule on either a continuous or an intermittent, at least once per year, basis. (7-1-12)T

b. The participant's comprehensive diagnostic assessment must clearly identify the participant's need for skill training services that target skill deficits caused by his mental health condition. The participant's record must contain documentation that collaboration has occurred with the participant's other service providers in order to prevent duplication of skill training treatment services. (7-1-12)T

c. The skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The detail of the adult's level and type of functional impairment must be documented in the medical record in the following areas: (3-29-12)(7-1-12)T

~~a.i.~~ Vocational/educational; (4-2-08)

~~b.ii.~~ Financial; (4-2-08)

~~c.iii.~~ Social relationships/support; (4-2-08)

~~d.iv.~~ Family; (4-2-08)

- e.v.** Basic living skills; (4-2-08)
- f.vi.** Housing; (4-2-08)
- g.vii.** Community/legal; or (4-2-08)
- h.viii.** Health/medical. (4-2-08)

07. Criteria Following Discharge For Psychiatric Hospitalization. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules are eligible for enhanced outpatient mental health clinic and PSR services. (3-19-07)

a. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules, described in Subsection 112.02 of this rule for children, and in Subsection 112.03 of this rule for adults, are considered immediately eligible for enhanced outpatient mental health services for a period of at least one hundred and twenty (120) days following discharge from the hospital. The individualized treatment plan must be completed and documented in the medical record within ten (10) days of discharge. (5-8-09)

i. Up to two (2) hours of plan development hours may be used for coordinating with hospital staff and others the participant chooses. These plan development hours are to be used for the development of an individualized treatment plan based on the participant's hospital records and past history. The provider agency does not have to perform any additional assessment in order to initiate treatment nor does the participant need to qualify as described in Section 114 of these rules. (5-8-09)

ii. Upon initiation of treatment at the agency, the treatment plan is valid for no more than one hundred twenty (120) days from the date of discharge from the hospital. A comprehensive diagnostic assessment or updated comprehensive diagnostic assessment addendum must be completed within ten (10) days of the initiation of treatment if one is not available from the hospital or if the one from the hospital does not contain the needed clinical information. (3-29-12)

b. In order for the participant to continue in the services listed on the post-hospitalization treatment plan beyond one hundred twenty (120) days, the plan must be updated and the provider must establish that the participant meets the criteria as described in Subsections 112.01 through 112.06 of this rule as applicable to the services being provided, and that enhanced outpatient mental health services are appropriate for the participant's age, circumstances, and medically necessary level of care. The PSR or mental health clinic provider does not need to submit form H0002 because the participant is already in the Enhanced Plan. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

118. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES: DESCRIPTIONS.

01. Psychotherapy. Under the Medicaid Enhanced Plan, individual, family and group psychotherapy services are limited to forty-five (45) hours per calendar year. (3-19-07)

02. Partial Care Services. Under the Medicaid Enhanced Plan, partial care services are limited to twelve (12) hours per week per eligible participant. (5-8-09)

a. In order to be considered a partial care service, the service must: (3-19-07)

i. Be provided in a structured environment within the MHC setting; (3-19-07)

ii. Be identified as a service need through the participant's comprehensive diagnostic assessment and be indicated on the individualized treatment plan with documented, concrete, and measurable objectives and

outcomes; and (3-29-12)

iii. Provide interventions for relieving symptoms, stabilizing behavior, and acquiring specific skills. These interventions must include the specific medical services, therapies, and activities that are used to meet the treatment objectives. (5-8-09)

b. Staff Qualifications for Partial Care Services. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the qualifications listed in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.01. (3-19-07)

c. Excluded Services. Services that focus on vocation, recreation, or education are not reimbursable under Medicaid Partial Care. Services that are provided outside the clinic facility are not reimbursable. Participants who receive skill training in Partial Care cannot receive skill training in psychosocial rehabilitation, ~~developmental therapy, intensive behavioral intervention, or residential habilitation~~ services. (3-29-12)(7-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

124. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR): COVERAGE AND LIMITATIONS.

The following service limitations apply to PSR agency services, unless otherwise authorized by the Department. (5-8-09)

01. Assessment. Assessment services must not exceed four (4) hours per participant annually. The following assessments are included in this limitation: (3-29-12)

a. Comprehensive Diagnostic Assessment. This assessment, or an addendum to the existing assessment must be completed for each participant at least once annually; (3-29-12)

b. Occupational Therapy Assessment. The duration of this type of assessment is determined by the participant's benefits and the presenting reason for such an assessment. (5-8-09)

02. Psychological and Neuropsychological Testing. Testing services are limited to two (2) computer-administered testing sessions and four (4) assessment hours per year. Additional testing must be prior authorized by the Department. Testing services are not included in the annual assessment limitation described at Subsection 124.01. The duration of psychological and neuropsychological testing is determined by the participant's benefits and the presenting reason for such an assessment. (3-29-12)

03. Individualized Treatment Plan. Two (2) hours are available for the development of the participant's initial treatment plan. Following the development of the initial treatment plan, all subsequent treatment must be based on timely updates to the initial plan. Treatment plan updates are considered part of the content of care and should occur as an integral part of the participant's treatment experience. (3-29-12)

04. Psychotherapy. Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. Services beyond six (6) hours weekly must be prior-authorized. (5-8-09)

05. Crisis Intervention Service. A maximum of ten (10) hours of crisis support in a community may be authorized per crisis per seven (7) day period. Authorization must follow procedure described above at Subsection 123.04 of these rules. This limitation is in addition to any other PSR service hours within that same time frame. (5-8-09)

06. Skill Training and Community Reintegration. Services are limited to five (5) hours weekly in any combination of individual or group skill training and community reintegration for eligible participants up to twenty-one (21) years of age. For participants aged twenty-one (21) years of age or older, services are limited to four (4) hours weekly in any combination of individual or group skill training and community reintegration. Participants who receive skill training in psychosocial rehabilitation cannot receive skill training in partial care, ~~developmental~~

~~therapy, intensive behavioral intervention, or residential habilitation services.~~ Participants with both a developmental disability diagnosis and a qualifying mental health diagnosis, who want to receive skill training services from a PSR agency provider, in addition to a developmental disability service provider must obtain authorization from the Department prior to service implementation. ~~(3-29-12)~~(7-1-12)T

07. Pharmacological Management. Pharmacological management services beyond twenty-four (24) encounters per calendar year must be prior authorized by the Department. (5-8-09)

08. Occupational Therapy. Occupational therapy services must be prior authorized by the Department, based on the results of an occupational therapy evaluation completed by an Occupational Therapist licensed in accordance with IDAPA 22.01.09, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." (5-8-09)

09. Place of Service. PSR agency services are to be home and community-based. (5-8-09)

a. PSR agency services must be provided to the participant in his home and community whenever possible. Any other location, including a provider's office or clinic, may be used if the specific place of service is stated in the individualized treatment plan and is necessary to maximize the impact of the service. (5-8-09)

b. PSR agency services may be provided to a participant living in a residential or assisted living facility if the PSR services are determined by the Department to be appropriate, desired by the resident, and are not the responsibility of the facility or another agency under the Negotiated Service Agreement for residential or assisted living facilities. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

326. AGED OR DISABLED WAIVER SERVICES: COVERAGE AND LIMITATIONS.

01. Adult Day Care. Adult day care is a supervised, structured day program, outside the home of the participant, that may offer one (1) or more of a variety of social, recreational, health activities, supervision for safety, and assistance with activities of daily living. (3-19-07)

02. Adult Residential Care Services. Services are those that consist of a range of services provided in a congregate setting licensed in accordance with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho," that includes: (3-19-07)

- a.** Medication management; (3-19-07)
- b.** Assistance with activities of daily living; (3-19-07)
- c.** Meals, including special diets; (3-19-07)
- d.** Housekeeping; (3-19-07)
- e.** Laundry; (3-19-07)
- f.** Transportation; (3-19-07)
- g.** Opportunities for socialization; (3-19-07)
- h.** Recreation; and (3-19-07)
- i.** Assistance with personal finances. (3-19-07)

- j.** Administrative oversight must be provided for all services provided or available in this setting. (3-19-07)
- k.** A written individual service plan must be negotiated between the participant or his legal representative, and a facility representative. (3-19-07)
- 03. Assistive Technology.** Assistive technology is any item, piece of equipment, or product system beyond the scope of the Medicaid State Plan, whether acquired off the shelf or customized, that is used to increase, maintain, or improve the functional capability of the participant. Assistive technology also includes items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment. (3-19-07)
- 04. Assisted Transportation.** Individual assistance with non-medical transportation services, including escort to a person who has difficulties (physical or cognitive) using regular vehicular transportation. Such services are specified in the plan for services in order to enable waiver participants to gain access to waiver and other community services and resources. (3-19-07)
- a.** Assisted transportation service is offered in addition to medical transportation required in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 860 through 876, and will not replace it. (3-19-07)
- b.** Whenever possible, family, neighbors, friends, or community agencies who can provide this service without charge or public transit providers will be utilized. (3-19-07)
- 05. Attendant Care.** Attendant care services are those services that involve personal and medically oriented tasks dealing with the functional needs of the participant. These services may include personal care and medical tasks that can be done by unlicensed persons, or delegated to an unlicensed person by a licensed health care professional. Services may occur in the participant's home, community, work, school or recreational settings. (3-30-07)
- a.** To utilize the services of a Personal Assistance Agency acting as a fiscal intermediary, the participant family, or legal representative must be able and willing to assume responsibility for the direction of the participant's care and for personnel activities such as provider selection and supervision. If the participant, family, or legal representative is unable or unwilling to assume such responsibility, then an agency employee must be utilized. (3-19-07)
- b.** The Department may require supervision by a health care professional if the required care is so complex that such supervision is necessary for health and safety. (3-19-07)
- 06. Chore Services.** Chore services include the services provided in Subsection 326.06.a. and 326.06.b. of this rule: (3-19-07)
- a.** Intermittent Assistance may include the following. (3-19-07)
- i.** Yard maintenance; (3-19-07)
- ii.** Minor home repair; (3-19-07)
- iii.** Heavy housework; (3-19-07)
- iv.** Sidewalk maintenance; and (3-19-07)
- v.** Trash removal to assist the participant to remain in their home. (3-19-07)
- b.** Chore activities may include the following: (3-19-07)
- i.** Washing windows; (3-19-07)

- ii. Moving heavy furniture; (3-19-07)
- iii. Shoveling snow to provide safe access inside and outside the home; (3-19-07)
- iv. Chopping wood when wood is the participant's primary source of heat; and (3-19-07)
- v. Tacking down loose rugs and flooring. (3-19-07)

c. These services are only available when neither the participant, nor anyone else in the household is capable of performing or financially providing for them, and where no other relative, caretaker, landlord, community volunteer, agency, or third party payer is willing to or is responsible for their provision. (3-19-07)

d. In the case of rental property, the responsibility of the landlord, pursuant to the lease agreement, will be examined prior to any authorization of service. Chore services are limited to the services provided in a home rented or owned by the participant. (3-19-07)

07. Adult Companion. In-home services to insure the safety and well-being of a person who cannot be left alone because of frail health, a tendency to wander, inability to respond to emergency situations, or other conditions that would require a person on-site. The service provider may provide voice cuing and occasional assistance with toileting, personal hygiene, dressing, and other activities of daily living. However, the major responsibility is to provide companionship and be there in case they are needed. (3-19-07)

08. Consultation. Consultation services are services to a participant or family member. Services provided by a PAA to a participant or family member to increase their skills as an employer or manager of their own care. Such services are directed at achieving the highest level of independence and self reliance possible for the participant/family. Services to the provider are for the purpose of understanding the special needs of the participant and the role of the care giver. (3-19-07)

09. Dental Services. Dental services include exams, radiographs, diagnostic and preventative services, basic restorations, periodontics, oral surgery, maxillofacial surgery, and adjunctive dental services. These services and the medically necessary dental benefits described in these rules are provided through the Idaho Smiles program. The State's Medicaid dental contract for the Idaho Smiles program includes the complete list of all dental services available to waiver participants. Waiver dental services are limited to participants who are past the month of their twenty-first birthdays. Waiver participants who are under age twenty-one (21) will continue to receive children's dental benefits under the State Plan. (7-1-12)T

~~09~~**10. Home Delivered Meals.** Meals which are designed to promote adequate participant nutrition through the provision and home delivery of one (1) to two (2) meals per day. Home delivered meals are limited to participants who: (3-19-07)

- a. Rent or own their own home; (3-19-07)
- b. Are alone for significant parts of the day; (3-19-07)
- c. Have no regular caretaker for extended periods of time; and (3-19-07)
- d. Are unable to prepare a balanced meal. (3-19-07)

~~10~~**11. Homemaker Services.** Assistance to the participant with light housekeeping, laundry, assistance with essential errands, meal preparation, and other light housekeeping duties if there is no one else in the household capable of performing these tasks. (3-19-07)

~~11~~**12. Home Modifications.** Minor housing adaptations that are necessary to enable the participant to function with greater independence in the home, or without which, the participant would require institutionalization. Such adaptations may include: (3-19-07)

- a. The installation of ramps and lifts, widening of doorways, modification of bathroom facilities, or

installation of electric and plumbing systems which are necessary to accommodate the medical equipment and supplies necessary for the welfare of the waiver participant, but will exclude those adaptations or improvements to the home which are not of direct medical or remedial benefit to the participant, such as carpeting, roof repair, or central air conditioning. (3-19-07)

b. Permanent environmental modifications are limited to modifications to a home owned by the participant or the participant's family and the home is the participant's principal residence. (3-19-07)

c. Portable or Non-Stationary Modifications. Portable or non-stationary modifications may be made when such modifications can follow the participant to his next place of residence or be returned to the Department. (3-19-07)

123. Personal Emergency Response System. A system which may be provided to monitor waiver participant safety or provide access to emergency crisis intervention for emotional, medical, or environmental emergencies through the provision of communication connection systems. PERS are limited to participants who: (3-19-07)

a. Rent or own their home, or live with unpaid relatives; (3-19-07)

b. Are alone for significant parts of the day; (3-19-07)

c. Have no caretaker for extended periods of time; and (3-19-07)

d. Would otherwise require extensive routine supervision. (3-19-07)

134. Psychiatric Consultation. Psychiatric Consultation is direct consultation and clinical evaluation of participants, who are currently experiencing or may be expected to experience a psychological, behavioral, or emotional crisis. This service may provide training to the direct service provider or participant's family related to the needs of a participant. These services also provide emergency intervention involving the direct support of the participant in crisis. (3-19-07)

145. Respite Care. Occasional breaks from care giving responsibilities to non-paid care givers. The care giver or participant is responsible for selecting, training, and directing the provider. While receiving respite care services, the waiver participant cannot receive other waiver services which are duplicative in nature. Respite care services provided under this waiver will not include room and board payments. (3-19-07)

156. Skilled Nursing Services. Intermittent or continuous oversight, training, or skilled care which is within the scope of the Nurse Practice Act and as such care must be provided by a licensed registered nurse, or licensed practical nurse under the supervision of a registered nurse, licensed to practice in Idaho. These services are not appropriate if they are less cost effective than a Home Health visit. Nursing services may include but are not limited to: (3-19-07)

a. The insertion and maintenance of nasogastric tubes and the monitoring or installation of feeding material; (3-19-07)

b. The maintenance of volume ventilators including associated tracheotomy care, tracheotomy, and oral pharyngeal suctioning. (3-19-07)

c. Maintenance and monitoring of IV fluids or nutritional supplements which are to be administered on a continuous or daily basis; (3-19-07)

d. Injections; (3-19-07)

e. Blood glucose monitoring; and (3-19-07)

f. Blood pressure monitoring. (3-19-07)

167. Habilitation. Habilitation services consist of an integrated array of individually-tailored services and supports furnished to eligible participants. These services and supports are designed to assist the participants to reside successfully in their own homes, with their families, or in alternate family homes. (3-30-07)

a. Residential habilitation services assist the individual to acquire, retain, or improve his ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas: (3-30-07)

i. Self-direction consists of identifying and responding to dangerous or threatening situations, making decisions and choices affecting the individual's life, and initiating changes in living arrangements or life activities; (3-30-07)

ii. Money management consists of training or assistance in handling personal finances, making purchases, and meeting personal financial obligations; (3-30-07)

iii. Daily living skills consist of training in accomplishing routine housekeeping tasks, meal preparation, dressing, personal hygiene, self administration of medications, and other areas of daily living including proper use of adaptive and assistive devices, appliances, as well as following home safety, first aid, and emergency procedures; (3-30-07)

iv. Socialization consists of training or assistance in participation in general community activities and establishing relationships with peers with an emphasis on connecting the participant to his community. Socialization training associated with participation in community activities includes assisting the participant to identify activities of interest, working out arrangements to participate in such activities, and identifying specific training activities necessary to assist the participant to continue to participate in such activities on an on-going basis. Socialization training does not include participation in nontherapeutic activities that are merely diversional or recreational in nature; (3-30-07)

v. Mobility consists of training or assistance aimed at enhancing movement within the person's living arrangement, mastering the use of adaptive aids and equipment, accessing and using public transportation, independent travel, or movement within the community; or (3-30-07)

vi. Behavior shaping and management consist of training and assistance in appropriate expressions of emotions or desires, assertiveness, acquisition of socially appropriate behaviors, or extension of therapeutic services that consist of reinforcing physical, occupational, speech, and other therapeutic programs. (3-30-07)

b. Day rehabilitation consists of assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills that take place in a non-residential setting, separate from the home or facility in which the participant resides. Services will normally be furnished four (4) or more hours per day on a regularly scheduled basis, for one (1) or more days per week, unless provided as an adjunct to other day activities included in a participant's plan of care. Day rehabilitation services will focus on enabling the participant to attain or maintain his or her maximum functional level and will be coordinated with any physical therapy, occupational therapy, or speech-language pathology services listed in the plan of care. In addition, day rehabilitation services may serve to reinforce skills or lessons taught in school, therapy, or other settings. (4-2-08)

178. Supported Employment. Supported employment consists of competitive work in integrated work settings for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred, or for whom competitive employment has been interrupted or intermittent as a result of a severe disability. Because of the nature and severity of their disability, these individuals need intensive supported employment services or extended services in order to perform such work. (3-30-07)

a. Supported employment services rendered under this waiver are not available under a program funded by either the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA). Documentation must be maintained by RMS in the file of each individual receiving this service verifying that the service is not otherwise available or funded under the Rehabilitation Act of 1973, as amended, or the IDEA. (3-30-07)

b. Federal Financial Participation (FFP) cannot be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following: incentive payments made to an employer of waiver participants to encourage or subsidize the employer's participation in a supported employment programs, payments that are passed through to beneficiaries of supported employment programs, or payments for vocational training that is not directly related to a waiver participant's supported employment program. (3-30-07)

189. Behavior Consultation or Crisis Management. Behavior consultation or crisis management consists of services that provide direct consultation and clinical evaluation of participants who are currently experiencing, or are expected to experience, a psychological, behavioral, or emotional crisis. This service may provide training and staff development related to the needs of a participant. These services also include emergency back-up that provides direct support and services to a participant in crisis. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

329. AGED OR DISABLED WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

Each provider must have a signed provider agreement with the Department for each of the services it provides. (3-19-07)

01. Employment Status. Unless otherwise specified by the Department, each individual service provider must be an employee of record or fact of an agency. The Department may enter into provider agreements with individuals in situations in which no agency exists, or no fiscal intermediary agency is willing to provide services. Such agreements will be reviewed annually to verify whether coverage by a personal assistance agency or fiscal intermediary agency is still not available. (5-8-09)

02. Fiscal Intermediary Services. An agency that has responsibility for the following: (5-8-09)

a. To directly assure compliance with legal requirements related to employment of waiver service providers; (3-19-07)

b. To offer supportive services to enable participants or families consumers to perform the required employer tasks themselves; (3-19-07)

c. To bill the Medicaid program for services approved and authorized by the Department; (3-19-07)

d. To collect any participant participation due; (3-19-07)

e. To pay personal assistants and other waiver service providers for service; (3-19-07)

f. To perform all necessary withholding as required by state and federal labor and tax laws, rules and regulations; (3-19-07)

g. To assure that personal assistants providing services meet the standards and qualifications under in this rule; (5-8-09)

h. To maintain liability insurance coverage; (5-8-09)

i. To conduct, at least annually, participant satisfaction or quality control reviews that are available to the Department and the general public; (5-8-09)

j. To obtain such criminal background checks and health screens on new and existing employees of record and fact as required. (5-8-09)

03. Provider Qualifications. All providers of homemaker, respite care, adult day health, transportation, chore companion, attendant adult residential care, home delivered meals, and behavior consultants

must meet, either by formal training or demonstrated competency, the training requirements contained in the provider training matrix and the standards for direct care staff and allowable tasks or activities in the Department's approved Aged and Disabled waiver as approved by CMS. (3-19-07)

a. A waiver provider cannot be a relative of any participant to whom the provider is supplying services. (3-19-07)

b. For the purposes of Section 329 of these rules, a relative is defined as a spouse or parent of a minor child. (3-19-07)

c. Individuals who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," including: (4-2-08)

i. Companion services; (4-2-08)

ii. Chore services; and (4-2-08)

iii. Respite care services. (4-2-08)

04. Specialized Medical Equipment Provider Qualifications. Providers of specialized medical equipment and supplies must be enrolled in the Medicaid program as participating medical vendor providers. (3-19-07)

05. Nursing Service Provider Qualifications. Nursing Service Providers must be licensed as an R.N. or L.P.N. in Idaho or be practicing on a federal reservation and be licensed in another state. (3-19-07)

06. Psychiatric Consultation Provider Qualifications. Psychiatric Consultation Providers must have: (3-19-07)

a. A master's degree in a behavioral science; (3-19-07)

b. Be licensed in accordance with state law and regulations; or (3-19-07)

c. A bachelor's degree and work for an agency with direct supervision from a licensed or Ph.D. psychologist and have one (1) year's experience in treating severe behavior problems. (4-2-08)

d. Psychiatric consultation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)

07. Consultation Services. Services must be provided through a Personal Assistance Agency by a person who has demonstrated skills in training participants/family members in hiring, firing, training, and supervising their own care providers. (3-19-07)

08. Adult Residential Care Providers. Adult Residential Care providers will meet all applicable state laws and regulations. In addition, the provider must ensure that adequate staff are provided to meet the needs of the participants accepted for admission. Adult residential care providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.03.19, "Rules Governing Certified Family Homes," and IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (4-2-08)

09. Home Delivered Meals. Providers must be a public agency or private business and must be capable of: (3-19-07)

a. Supervising the direct service; (3-19-07)

- b.** Providing assurance that each meal meets one-third (1/3) of the recommended daily allowance, as defined by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; (3-19-07)
- c.** Delivering the meals in accordance with the plan for care, in a sanitary manner and at the correct temperature for the specific type of food; (3-19-07)
- d.** Maintaining documentation that the meals served are made from the highest USDA grade for each specific food served; and (3-19-07)
- e.** Being inspected and licensed as a food establishment by the district health department. (3-19-07)
- 10. Personal Emergency Response Systems.** Providers must demonstrate that the devices installed in waiver participant's homes meet Federal Communications Standards, Underwriter's Laboratory Standards, or equivalent standards. (3-19-07)
- 11. Adult Day Care.** Facilities that provide adult day care must be maintained in safe and sanitary manner. (3-30-07)
- a.** Facilities will provide the necessary space and staff to meet the needs of the participants accepted by the provider. Supervision must be provided by the facility as necessary, to assure the safety and comfort of participants served. (3-19-07)
- b.** Providers who accept participants into their homes for services must maintain the homes in a safe and sanitary manner. Supervision must be provided by the provider as necessary to assure the safety and comfort of participants served. (3-30-07)
- c.** Adult day care providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks History and Background Checks." (4-2-08)
- 12. Assistive Technology.** All items must meet applicable standards of manufacture, design and installation. The equipment must be the most cost effective to meet the participant's need. (3-19-07)
- 13. Assisted Transportation Services.** See Subsection 329.03 of this rule for provider qualifications. (3-19-07)
- 14. Attendant Care.** See Subsection 329.03 of this rule for provider qualifications. Attendant care providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)
- 15. Homemaker Services.** The homemaker must be an employee of record or fact of an agency. Homemaker service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)
- 16. Home Modifications.** All services must be provided in accordance with applicable state or local building codes and meet state or local building, plumbing, and electrical requirements for certification. (3-19-07)
- 17. Residential Habilitation Supported Living Provider Qualifications.** Residential habilitation supported living services must be provided by an agency that is capable of supervising the direct services provided. Individuals who provide residential habilitation services in the home of the participant (supported living) must be employed by a residential habilitation agency. Providers of residential habilitation services must meet the following requirements: (3-29-12)
- a.** Direct service staff must meet the following minimum qualifications: (3-30-07)
- i.** Be at least eighteen (18) years of age; (3-30-07)

- ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to a plan of care; (3-30-07)
- iii. Have current CPR and First Aid certifications; (3-30-07)
- iv. Be free from communicable diseases; (3-30-07)
- v. Each staff person assisting with participant medications must successfully complete and follow the “Assistance with Medications” course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. (3-30-07)
- vi. Residential habilitation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, “Criminal History and Background Checks;” (4-2-08)
- vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. Direct service staff must also have taken a traumatic brain injury training course approved by the Department. (3-30-07)
- b.** The provider agency is responsible for providing direct service staff with a traumatic brain injury training course approved by the Department, and training specific to the needs of the participant. Skill training may be provided by a Program Coordinator who has demonstrated experience in writing skill training programs, if no agency is available in their geographic area as outlined in Subsection 329.18.c. of this rule. (3-30-07)
- c.** Residential habilitation providers who are unable to be employed by an agency because one is not available in their geographic area, must receive program development, implementation and oversight of service delivery services qualified by a program coordinator who is approved by the Department. (3-29-12)
- d.** Prior to delivering services to a participant, direct service staff must complete an orientation program. The orientation program must include the following subjects: (3-30-07)
 - i. Purpose and philosophy of services; (3-30-07)
 - ii. Service rules; (3-30-07)
 - iii. Policies and procedures; (3-30-07)
 - iv. Proper conduct in relating to waiver participants; (3-30-07)
 - v. Handling of confidential and emergency situations that involve the waiver participant; (3-30-07)
 - vi. Participant rights; (3-30-07)
 - vii. Methods of supervising participants; (3-30-07)
 - viii. Working with individuals with traumatic brain injuries; and (3-30-07)
 - ix. Training specific to the needs of the participant. (3-30-07)
- e.** Additional training requirements must be completed within six (6) months of employment with the residential habilitation agency and include at a minimum: (3-29-12)
 - i. Instructional techniques: Methodologies for training in a systematic and effective manner; (3-30-07)
 - ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (3-30-07)

- iii. Feeding; (3-30-07)
 - iv. Communication; (3-30-07)
 - v. Mobility; (3-30-07)
 - vi. Activities of daily living; (3-30-07)
 - vii. Body mechanics and lifting techniques; (3-30-07)
 - viii. Housekeeping techniques; and (3-30-07)
 - ix. Maintenance of a clean, safe, and healthy environment. (3-30-07)
- f.** The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed; and (3-30-07)

19. Residential Habilitation Program Coordination for Certified Family Home Providers. When residential habilitation services are provided in the provider's home, the provider must meet the requirements in IDAPA 16.03.19, "Rules Governing Certified Family Homes" and must receive residential habilitation program coordination from a qualified program coordinator approved by the Department. Non-compliance with the certification process is cause for termination of the provider agreement or contract. (3-29-12)

20. Day Rehabilitation Provider Qualifications. Providers of day rehabilitation services must have a minimum of two (2) years of experience working directly with persons with a traumatic brain injury, must provide documentation of standard licensing specific to their discipline, and must have taken a traumatic brain injury course approved by the Department. Day rehabilitation providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)

21. Supported Employment Service Providers. Supported employment services must be provided by an agency capable of supervising the direct service and be accredited by the Commission on Accreditation of Rehabilitation Facilities; or other comparable standards; or meet State requirements to be a State-approved provider, and have taken a traumatic brain injury training course approved by the Department. Supported employment service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)

22. Behavior Consultation or Crisis Management Service Providers. Behavior consultation or crisis management providers must meet the following: (3-30-07)

- a.** Have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, or a closely related course of study; (3-30-07)
- b.** Be a licensed pharmacist; or (3-30-07)
- c.** Work for a provider agency capable of supervising the direct service or work under the direct supervision of a licensed psychologist or Ph.D., with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (3-30-07)
- d.** Take a traumatic brain injury training course approved by the Department. (3-30-07)
- e.** Emergency back-up providers must also meet the minimum provider qualifications under residential habilitation services. (3-30-07)
- f.** Behavior consultation or crisis management service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal

History and Background Checks.”

(4-2-08)

23. Dental Services. Providers are credentialed by the contractor to ensure they meet the licensing requirements of the Idaho Board of Dentistry. Providers' duties are based on the contract requirements and are monitored and enforced by the contractor. (7-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

651. DDA SERVICES: COVERAGE REQUIREMENTS AND LIMITATIONS.

Developmental disabilities agency services must be recommended by a physician or other practitioner of the healing arts. The following therapy services are reimbursable when provided in accordance with these rules. (7-1-11)

01. Required DDA Services. Each DDA is required to provide developmental therapy; in addition, each DDA must provide or make available the following services: psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy. Developmental therapy must be provided by qualified employees of the agency. Psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy must either be provided by qualified employees of the agency or through a formal written agreement. (7-1-11)

a. Sufficient Quantity and Quality. All required services provided must be sufficient in quantity and quality to meet the needs of each person receiving services, and must be provided by qualified individuals in accordance with the requirements in Section 657 of these rules. (7-1-11)

b. When a Required Service Is Not Available. When a required service, other than developmental therapy, is not provided by the agency due to a documented shortage of available providers in a specific geographic area, the DDA must document its effort to secure the service or facilitate the referral for the needed service, including notifying the service coordinator, when the participant has one. (7-1-11)

02. Requirements to Deliver Developmental Therapy. Developmental therapy may be delivered in a developmental disabilities agency center-based program, the community, or the home of the participant. Participants living in a certified family home must not receive home-based developmental therapy in a certified family home. Developmental therapy includes individual developmental therapy and group developmental therapy. Developmental therapy services must be delivered by Developmental Specialists or paraprofessionals qualified in accordance with these rules, based on a comprehensive developmental assessment completed prior to the delivery of developmental therapy. ~~Developmental therapy will not be reimbursed if the participant is receiving psychosocial rehabilitation or partial care services as this is a duplication of services.~~ (3-29-12)(7-1-12)T

a. Areas of Service. These services must be directed toward the rehabilitation or habilitation of physical or mental disabilities in the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency. (7-1-11)

b. Age-Appropriate. Developmental therapy includes instruction in daily living skills the participant has not gained at the normal developmental stages in his life, or is not likely to develop without training or therapy. Developmental therapy must be age-appropriate. (7-1-11)

c. Tutorial Activities and Educational Tasks are Excluded. Developmental therapy does not include tutorial activities or assistance with educational tasks associated with educational needs that result from the participant's disability. (7-1-11)

d. Settings for Developmental Therapy. Developmental therapy, in both individual and group formats, must be available in both community-based and home-based settings, and be based on participant needs, interests, or choices. (7-1-11)

e. Staff-to-Participant Ratio. When group developmental therapy is center-based, there must be a minimum of one (1) qualified staff, who may be a paraprofessional or a Developmental Specialist, providing direct

services for every twelve (12) participants. Additional staff must be added, as necessary, to meet the needs of each individual served. (7-1-11)

03. Psychotherapy Services. The following psychotherapy services must be available through each agency and based on assessment(s) conducted by the professional qualified to deliver the service: (7-1-11)

a. Individual psychotherapy; (7-1-11)

b. Group psychotherapy in which there is a minimum ratio of one (1) qualified staff person for every twelve (12) individuals in group therapy; and (7-1-11)

c. Family-centered psychotherapy that includes the participant and at least one (1) other family member at any given time. (7-1-11)

d. Psychotherapy services are limited to a maximum of forty-five (45) hours in a calendar year, including individual, group, and family-centered. (3-29-12)

e. Psychotherapy services must be provided by one (1) of the following qualified professionals: (7-1-11)

i. Licensed Psychiatrist; (7-1-11)

ii. Licensed Physician; (7-1-11)

iii. Licensed Psychologist; (7-1-11)

iv. Licensed Clinical Social Worker; (7-1-11)

v. Licensed Clinical Professional Counselor; (7-1-11)

vi. Licensed Marriage and Family Therapist; (7-1-11)

vii. Certified Psychiatric Nurse (RN), licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree; (7-1-11)

viii. Licensed Professional Counselor whose provision of psychotherapy is supervised by persons qualified above under Subsections 651.03.e.i. through 651.03.e.vii. of this rule; (7-1-11)

ix. Registered Marriage and Family Therapist Intern whose provision of psychotherapy is supervised as described in Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (7-1-11)

x. Licensed Masters Social Worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; or (7-1-11)

xi. A Psychologist Extender, registered with the Bureau of Occupational Licenses, whose provision of psychotherapy is supervised as described in IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (7-1-11)

04. Occupational Therapy Services. Occupational therapy services include individual occupational therapy and group occupational therapy. These services are limited in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 730 through 739. Occupational therapy services must be available and provided by a licensed occupational therapist and be based on the results of an occupational therapy assessment completed in accordance with Section 655 of these rules. (7-1-11)

05. Physical Therapy Services. Physical therapy services include individual or group therapy. These services are limited in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 730 through 739.

Physical therapy services must be available and provided by a licensed physical therapist and be based on the results of a physical therapy assessment completed in accordance with Section 655 of these rules. (7-1-11)

06. Speech-Language Pathology Services. Speech-language pathology services include individual or group therapy. These services are limited in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 730 through 739. Speech-language pathology services must be available and provided by a qualified speech-language pathologist, as defined in these rules, and be based on the results of a speech and language assessment completed in accordance with Section 655 of these rules. (7-1-11)

07. Optional Services. DDAs may opt to provide any of the following services: pharmacological management, psychiatric diagnostic interviews, community crisis supports, and Intensive Behavioral Intervention (IBI). All services must be provided by qualified individuals in accordance with the requirements in Section 657 of these rules. (3-29-12)

08. Pharmacological Management. Pharmacological management is consultation for the purpose of prescribing, monitoring, or administering medications. These consultations must be provided by a physician or other practitioner of the healing arts in direct face-to-face contact with the participant and be provided in accordance with the plan of service with the type, amount, frequency, and duration of the service specified. The telephoning of prescriptions to the pharmacy is not a billable service. (7-1-11)

09. Psychiatric Diagnostic Interview. A psychiatric diagnostic interview must include a history, a current mental status examination, and offer recommendations for treatment interventions needed, if any. If the interview exam results in a recommendation for additional intervention and the recommendation is accepted by the participant and his parent or legal guardian, if applicable, the recommendation must be incorporated into the participant's plan of service with the type, amount, frequency, and duration of service specified. (7-1-11)

a. Physician Requirement. In order for a DDA to conduct a psychiatric diagnostic interview, the agency must have a physician on contract for the purpose of overseeing the services on the plan. (7-1-11)

b. On Plan of Service. A psychiatric diagnostic interview must be incorporated into the participant's plan of service. (7-1-11)

c. Staff Qualifications. A psychiatric diagnostic interview must be conducted by one (1) of the following professionals, in direct face-to-face contact with the participant: (7-1-11)

- i. Psychiatrist; (7-1-11)
- ii. Physician or other practitioner of the healing arts; (7-1-11)
- iii. Psychologist; (7-1-11)
- iv. Clinical social worker; or (7-1-11)
- v. Clinical professional counselor. (7-1-11)

10. Community Crisis Supports. Community crisis supports are interventions for adult participants who have been determined eligible for developmental disability services and who are at risk of losing housing, employment or income, or are at risk of incarceration, physical harm, family altercation, or other emergencies. DDAs that choose to provide these services must do so in accordance with Sections 507 through 515 of these rules. (7-1-11)

11. Intensive Behavioral Intervention. DDA's that choose to offer Intensive Behavioral Intervention (IBI) must provide IBI services in accordance with Sections 656 of these rules. (7-1-11)

a. IBI is limited to a lifetime limit of thirty-six (36) months. (7-1-11)

b. The DDA must receive prior authorization from the Department prior to delivering IBI services. (7-1-11)

- c. IBI must only be delivered on an individualized, one-to-one (1 to 1) basis. (7-1-11)
- ~~d. Intensive behavioral intervention services will not be reimbursed if the participant is receiving psychosocial rehabilitation or partial care services as this is a duplication of services. (3-29-12)~~
- ~~ed.~~ After July 1, 2006, agencies must have provided developmental therapy for at least one (1) year and not be operating under a provisional certification prior to providing IBI services. (3-29-12)
- ~~fe.~~ Agencies that were providing IBI services prior to July 1, 2006, are exempt from the requirement under Subsection 651.12.d. of this rule. (3-29-12)
- ~~gf.~~ IBI consultation, as described in Section 656 of these rules, is included in the thirty-six (36) month IBI limitation. The DDA must receive prior authorization from the Department prior to providing IBI Consultation. (3-29-12)
- 12. Excluded Services.** The following services are excluded for Medicaid payments: (7-1-11)
- a. Vocational services; (7-1-11)
- b. Educational services; and (7-1-11)
- c. Recreational services. (7-1-11)
- 13. Limitations on DDA Services.** DDA therapy services may not exceed the limitations as specified below. (3-29-12)
- a. The combination of therapy services listed in Subsections 651.02 through 651.06, and 651.11 of this rule must not exceed twenty-two (22) hours per week. (3-29-12)
- b. Therapy services listed in Subsections 651.02 through 651.06, and 651.11 of this rule, provided in combination with Community Supported Employment services under Subsection 703.04 of these rules, must not exceed forty (40) hours per week. (3-29-12)
- c. When an HCBS waiver participant under Sections 700 through 719 of these rules receives Adult Day Care as provided in Subsection 703.12 of these rules, the combination of Adult Day Care, Developmental Therapy and Occupational therapy must not exceed thirty (30) hours per week. (7-1-11)
- d. Only one (1) type of therapy service will be reimbursed during a single time period by the Medicaid program. No therapy services will be reimbursed during periods when the participant is being transported to and from the agency. (7-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

657. DDA SERVICES: DDA PROVIDER QUALIFICATIONS AND DUTIES.

01. Audiologist, Licensed. A person licensed to conduct hearing assessment and therapy, in accordance with the Speech and Hearing Services Practice Act, Title 54, Chapter 29, Idaho Code, who either possesses a certificate of clinical competence in audiology from the American Speech, Language and Hearing Association (ASHA) or will be eligible for certification within one (1) year of employment. The agency's personnel records must reflect the expected date of certification. (7-1-11)

02. Counselor, Licensed Clinical Professional. A person licensed to practice as a clinical professional counselor in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing

Board of Professional Counselors and Marriage and Family Therapists.” (7-1-11)

03. Counselor, Licensed Professional. A person licensed to practice as a professional counselor in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists.” (7-1-11)

04. Marriage and Family Therapist. (7-1-11)

a. Licensed Marriage and Family Therapist. A person licensed to practice as a marriage and family therapist in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists.” (7-1-11)

b. Registered Marriage and Family Therapist Intern. A person registered to practice as a marriage and family therapist intern under the direct supervision of a Licensed Marriage and Family Therapist, in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists.” (7-1-11)

05. Developmental Specialist for Adults. To be qualified as a Developmental Specialist for adults, a person must have a minimum of two hundred forty (240) hours of professionally-supervised experience with individuals who have developmental disabilities and either: (7-1-11)

a. Possess a bachelor's or master's degree in special education, early childhood special education, speech and language pathology, applied behavioral analysis, psychology, physical therapy, occupational therapy, social work, or therapeutic recreation; or (7-1-11)

b. Possess a bachelor's or master's degree in an area not listed above in Subsection 657.05.a. of this rule and have: (7-1-11)

i. Completed a competency course jointly approved by the Department and the Idaho Association of Developmental Disabilities Agencies that relates to the job requirements of a Developmental Specialist; and (7-1-11)

ii. Passed a competency examination approved by the Department. (7-1-11)

c. Any person employed as a Developmental Specialist in Idaho prior to May 30, 1997, unless previously disallowed by the Department, will be allowed to continue providing services as a Developmental Specialist as long as there is not a gap of more than three (3) years of employment as a Developmental Specialist. (7-1-11)

06. Developmental Specialist for Children Three Through Seventeen. A Developmental Specialist providing developmental assessment and therapy services to children ages three (3) through seventeen (17) must meet the requirements for a Developmental Specialist for adults, and must also meet the following requirements: (7-1-11)

a. Successfully complete a competency course approved by the Department that relates to developmental assessment and therapy for children; and (7-1-11)

b. Pass a competency examination approved by the Department. (7-1-11)

07. Developmental Therapy Paraprofessionals Delivering Services to Participants Age Three and Older. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental therapy to children age (3) and older if they are under the supervision of a Developmental Specialist. A developmental therapy paraprofessional must be at least seventeen (17) years of age. (7-1-11)

08. Developmental Specialist for Children Birth to Three. (7-1-11)

a. To provide developmental assessments and therapy to children birth to three (3) years of age, a person must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young

children who have developmental disabilities and one (1) of the following: (7-1-11)

i. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or (7-1-11)

ii. A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; (7-1-11)

iii. A bachelor's or masters degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: (7-1-11)

(1) Promotion of development and learning for children from birth to three (3) years; (7-1-11)

(2) Assessment and observation methods for developmentally appropriate assessment of young children; (7-1-11)

(3) Building family and community relationships to support early interventions; (7-1-11)

(4) Development of appropriate curriculum for young children, including IFSP and IEP development; (7-1-11)

(5) Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and (7-1-11)

(6) Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. (7-1-11)

b. Electives closely related to the content under Subsection 657.08.a.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. (7-1-11)

c. A developmental specialist who possesses a bachelor's or master's degree listed above under Subsection 657.08.a.ii. of this rule, must have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with his approved, conditional hiring agreement. (7-1-11)

d. When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area: (7-1-11)

i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired. (7-1-11)

ii. Satisfactory progress will be determined on an annual review by the Department. (7-1-11)

iii. An individual who has an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as he demonstrates satisfactory progress on the plan and complete the requirements on the plan within three (3) years of his date of hire. (7-1-11)

09. Developmental Therapy Paraprofessionals Delivering Services to Children Birth to Three. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental therapy to children birth to three (3) years of age if they are under the supervision of a Developmental Specialist fully qualified to provide services to participants in this age group. Developmental therapy paraprofessionals serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: (7-1-11)

- a. Be at least eighteen (18) years of age; (7-1-11)
- b. Be a high school graduate or have a GED; and (7-1-11)
- c. Have transcribed courses for a minimum of a Child Development Associate degree (CDA) or the equivalent through completion of twelve (12) semester credits from an accredited college or university in child development, special education or closely-related coursework; or (7-1-11)
- d. Have three (3) years of documented experience providing care to infants, toddlers, or children less than five (5) years of age with developmental delays or disabilities under the supervision of a child development professional, certified educator, licensed therapist, or Developmental Specialist. (7-1-11)

10. Intensive Behavioral Intervention (IBI) Professional Delivering Services to Participants Three to Twenty-One. A person qualified to provide or direct the provision of Intensive Behavioral Intervention (IBI) must meet the following requirements: (7-1-11)

- a. Degree. A qualified IBI professional must hold at least a bachelor's degree in a health, human services, educational, behavioral science, or counseling field from a nationally accredited university or college. (7-1-11)
- b. Experience. An individual applying for IBI paraprofessional or professional certification must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. The year's experience must be gained through paid employment or university practicum experience or internship and be documented to include one thousand (1,000) hours of direct contact or care of children with developmental disabilities in a behavioral context. (7-1-11)
- c. Training and Certification. Qualified IBI professionals and paraprofessionals must comply with the requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410. (7-1-11)

11. IBI Paraprofessionals Delivering Services to Participants Three to Twenty-One. A certified IBI paraprofessional may be used to provide IBI under the supervision of a certified IBI professional and must comply with Section 658 of these rules. An IBI paraprofessional must also: (7-1-11)

- a. Be at least eighteen (18) years of age; (7-1-11)
- b. Experience. An individual applying for IBI paraprofessional or professional certification must be able to provide documentation of one (1) year of supervised experience working with children with developmental disabilities. The year of experience must be gained through paid employment or university practicum experience or internship and be documented to include one thousand (1,000) hours of direct contact or care of children with developmental disabilities in a behavioral context. (7-1-11)
- c. Training and Certification. Qualified IBI professionals and paraprofessionals must comply with the requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410. (7-1-11)

12. IBI Professionals Delivering Services to Children Birth to Three. A person qualified to provide or direct the provision of IBI to children under three (3) years of age must meet the staff qualifications described under Subsections 657.08.a.ii. through 657.08.d. of these rules, 657.10.b. and 657.10.c. of these rules and the certification and training requirements above under Subsections 658.01.e. and 658.01.f. of these rules. (7-1-11)

13. IBI Paraprofessionals Delivering Services to Children Birth to Three. A paraprofessional serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: (7-1-11)

- a. Be at least eighteen (18) years of age; (7-1-11)
- b. Be a high school graduate or have a GED; and (7-1-11)
- c. Have transcribed courses for a minimum of a Child Development Associate degree (CDA) or the

equivalent through completion of twelve (12) credits in child development, special education, or closely-related coursework; or (7-1-11)

d. Have three (3) years of documented experience providing care to infants, toddlers or children under five (5) years of age under the supervision of a child development professional, certified educator, or licensed therapist or Developmental Specialist. (7-1-11)

e. Qualified IBI professionals and paraprofessionals must comply with the requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410, and Subsections 658.01.e. and 658.01.f. of these rules. (7-1-11)

14. Nurse Practitioner. A licensed professional nurse (RN) who has met all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-11)

15. Occupational Therapist. A person qualified to conduct occupational therapy assessments and therapy in accordance with the requirements in IDAPA 22.01.09, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." (7-1-11)

16. Physical Therapist. A person qualified to conduct physical therapy assessments and therapy in accordance with the requirements in IDAPA 22.01.05, "Licensure of Physical Therapists Idaho State Board of Medicine and Physical Therapist Assistants." (7-1-11)

17. Physician. A person licensed to practice medicine in Idaho in accordance with the provisions of the Medical Practice Act, Title 54, Chapter 18, Idaho Code. (7-1-11)

18. Physician Assistant. A person who is licensed by the Idaho Board of Medicine and who meets at least one (1) of the following provisions: (7-1-11)

a. Is currently certified by the National Commission on Certification of Physician Assistants to assist primary care physicians; or (7-1-11)

b. Has satisfactorily completed a program for preparing physician's assistants that: (7-1-11)

i. Was at least one (1) academic year in length; and (7-1-11)

ii. Consisted of supervised clinical practice and at least four (4) months, in the aggregate, of classroom instruction directed toward preparing students to deliver health care; and (7-1-11)

iii. Was accredited by the American Medical Association's Committee on Allied Health Education and Accreditation. (7-1-11)

19. Psychiatric Nurse, Certified. A licensed professional nurse (RN), licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree. (7-1-11)

20. Psychiatrist. A person licensed to practice medicine in Idaho in accordance with the provisions of the Medical Practice Act, Title 54, Chapter 18, Idaho Code, and who meets the requirements for certification in psychiatry by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry. (7-1-11)

21. Psychologist. A person licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (7-1-11)

22. Psychologist Extender. A person who practices psychology under the supervision of a licensed psychologist as required under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners," and who is registered with the Bureau of Occupational Licenses.

(7-1-11)

23. Social Worker, Licensed. A person licensed in accordance with the Social Work Licensing Act, Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners.” (7-1-11)

24. Masters Social Worker, Licensed. A person who is licensed as a masters social worker (LMSW) in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners.” (7-1-11)

25. Clinical Social Worker, Licensed. A person who is licensed as a clinical social worker (LCSW) in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners.” (7-1-11)

26. Speech-Language Pathologist, Licensed. A person licensed to conduct speech-language assessment and therapy in accordance with the Speech and Hearing Services Practice Act, Title 54, Chapter 29, Idaho Code, who possesses a certificate of clinical competence in speech-language pathology from the American Speech, Language and Hearing Association (ASHA) or who will be eligible for certification within one (1) year of employment. The agency’s personnel records must reflect the expected date of certification. (7-1-11)

27. Requirements for Collaboration with Other Providers. (7-1-12)T

a. When participants are receiving rehabilitative or habilitative services from other providers, each DDA must coordinate each participant’s DDA program with these providers to maximize skill acquisition and generalization of skills across environments, and to avoid duplication of services. The DDA must maintain documentation of this collaboration. This documentation includes other plans of services such as the Individual Education Plan (IEP), Personal Care Services (PCS) plan, Residential Habilitation plan, and the Psychosocial Rehabilitation (PSR) plan. The participant’s file must also reflect how these plans have been integrated into the DDA’s plan of service for each participant. (7-1-12)T

b. A participant who is seeking skill training from a PSR agency provider as well as a Developmental Disabilities service provider may receive services from both if the service objectives are not duplicative, and the comprehensive diagnostic assessment described in Section 114 of these rules clearly identifies the participant’s need for skill training services that target skill deficits caused by the mental health condition. (7-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

685. CHILDREN’S WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Family Training. Providers of family training must meet the requirements for habilitative intervention providers defined in Subsections 685.03 and 685.04 of this rule. (7-1-11)

02. Interdisciplinary Training. Providers of interdisciplinary training must meet the following requirements: (7-1-11)

a. Occupational Therapist, as defined in Section 734 under IDAPA 16.03.09, “Medicaid Basic Plan Benefits”; (7-1-11)

b. Physical Therapist, as defined in Section 734 under IDAPA 16.03.09, “Medicaid Basic Plan Benefits”; (7-1-11)

c. Speech-Language Pathologist, as defined in Section 734 under IDAPA 16.03.09, “Medicaid Basic Plan Benefits”; (7-1-11)

- d. Practitioner of the healing arts; (7-1-11)
- e. Habilitative intervention provider as defined in Subsections 685.03 and 685.04 of this rule; or (7-1-11)
- f. Therapeutic consultation provider as defined in Subsection 685.05 of this rule. (7-1-11)

03. Habilitative Intervention. Habilitative intervention must be provided by a DDA certified to provide both support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," and is capable of supervising the direct services provided. Providers of habilitative intervention must meet the following minimum qualifications: (7-1-11)

- a. Must hold at least a bachelor's degree in a human services field from a nationally-accredited university or college; (7-1-11)
- b. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. Experience must be gained through paid employment or university practicum experience or internship; (7-1-11)
- c. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative intervention; or (7-1-11)
- d. Individuals working as Developmental Specialists for children age birth through three (3) or three (3) through 17, and individuals certified as Intensive Behavioral Intervention professionals prior to July 1, 2011, are qualified to provide habilitative intervention until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013 to maintain his certification. (7-1-11)

04. Habilitative Intervention for Children Birth to Three. In addition to the habilitative intervention qualifications listed in Subsections 685.04.a. through d. of this rule, habilitative intervention staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following: (7-1-11)

- a. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or (7-1-11)
- b. A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; or (7-1-11)
- c. A bachelor's or master's degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: (7-1-11)
 - i. Promotion of development and learning for children from birth to three (3) years; (7-1-11)
 - ii. Assessment and observation methods for developmentally appropriate assessment of young children; (7-1-11)
 - iii. Building family and community relationships to support early interventions; (7-1-11)
 - iv. Development of appropriate curriculum for young children, including IFSP and IEP development; (7-1-11)
 - v. Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and (7-1-11)

vi. Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. (7-1-11)

d. Electives closely related to the content under Subsection 685.04.c.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. (7-1-11)

e. Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 685.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement. (7-1-11)

f. When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area: (7-1-11)

i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired. (7-1-11)

ii. Satisfactory progress will be determined on an annual review by the Department. (7-1-11)

iii. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire. (7-1-11)

05. Therapeutic Consultation. Therapeutic consultation may be provided by a DDA certified to provide both supports and intervention services under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)," or by an independent Medicaid provider under agreement with the Department. Providers of therapeutic consultation must meet the following minimum qualifications: (7-1-11)

a. Doctoral or Master's degree in psychology, education, applied behavioral analysis, or have a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and (7-1-11)

b. Two (2) years relevant experience in designing and implementing comprehensive behavioral therapies for children with DD and challenging behavior. (7-1-11)

c. Therapeutic consultation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-11)

d. Therapeutic consultation providers employed by a DDA must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21 "Developmental Disabilities Services (DDA)." Independent therapeutic consultation providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. (7-1-11)

06. Crisis Intervention. Crisis intervention may be provided by a DDA certified to provide support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)," or by an independent Medicaid provider under agreement with the Department. Providers of crisis intervention must meet the following minimum qualifications: (7-1-11)

a. Crisis Intervention professionals must meet the minimum therapeutic consultation provider qualifications described in Subsection 685.04 of this rule. (7-1-11)

b. Emergency intervention technician providers must meet the minimum habilitative support provider

qualifications described under Subsection 665.02 of these rules. (7-1-11)

c. Crisis intervention providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-11)

07. Continuing Training Requirements for Professionals. Each professional providing waiver services must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any yearly training period, he may not provide waiver services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training-deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period. (7-1-11)

08. Requirements for Clinical Supervision. All DDA services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in this rule. Clinical supervisor(s) are professionals employed by a DDA on a continuous and regularly scheduled basis. (7-1-11)

a. The clinical supervisor is responsible for the oversight and supervision of service and support elements of the agency, including face-to-face supervision of agency staff providing direct services. (7-1-11)

b. The clinical supervisor must observe and review the direct services performed by all paraprofessional and professional staff on a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services and support. (7-1-11)

c. Each DDA must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. (7-1-11)

09. Requirements for Collaboration with Other Providers. (7-1-12)T

a. Providers of waiver services must coordinate with the family-centered planning team as specified on the plan of service. When a participant has had a psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to ensure therapies provided in the DDA accommodate the participant's mental health needs and to ensure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant's mental health status. (7-1-11)

b. A participant who is seeking skill training from a PSR agency provider as well as a Developmental Disabilities service provider may receive services from both if the service objectives are not duplicative, and the comprehensive diagnostic assessment described in Section 114 of these rules clearly identifies the participant's need for skill training services that target skill deficits caused by the mental health condition. (7-1-12)T

10. Requirements for Quality Assurance. Providers of children's waiver services must demonstrate high quality of services, including treatment fidelity, through an internal quality assurance review process. (7-1-11)

11. DDA Services. In order for a DDA to provide waiver services, the DDA must be certified to provide both support and intervention services. Each DDA is required to provide habilitative supports. When a DDA opts to provide habilitative intervention services, the DDA must also provide habilitative supports and family training. (7-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

703. ADULT DD WAIVER SERVICES: COVERAGE AND LIMITATIONS.

01. Residential Habilitation. Residential habilitation services which consist of an integrated array of individually-tailored services and supports furnished to eligible participants which are designed to assist them to reside successfully in their own homes, with their families, or alternate family homes. The services and supports that may be furnished consist of the following: (3-19-07)

a. Habilitation services aimed at assisting the individual to acquire, retain, or improve his ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas: (3-19-07)

i. Self-direction, including the identification of and response to dangerous or threatening situations, making decisions and choices affecting the individual's life, and initiating changes in living arrangements or life activities; (3-19-07)

ii. Money management including training or assistance in handling personal finances, making purchases, and meeting personal financial obligations; (3-19-07)

iii. Daily living skills including training in accomplishing routine housekeeping tasks, meal preparation, dressing, personal hygiene, self administration of medications, and other areas of daily living including proper use of adaptive and assistive devices, appliances, home safety, first aid, and emergency procedures; (3-19-07)

iv. Socialization including training or assistance in participation in general community activities and establishing relationships with peers with an emphasis on connecting the participant to his community. (Socialization training associated with participation in community activities includes assisting the participant to identify activities of interest, working out arrangements to participate in such activities and identifying specific training activities necessary to assist the participant to continue to participate in such activities on an on-going basis. Socialization training does not include participation in non-therapeutic activities which are merely diversional or recreational in nature); (3-19-07)

v. Mobility, including training or assistance aimed at enhancing movement within the person's living arrangement, mastering the use of adaptive aids and equipment, accessing and using public transportation, independent travel, or movement within the community; (3-19-07)

vi. Behavior shaping and management includes training and assistance in appropriate expressions of emotions or desires, assertiveness, acquisition of socially appropriate behaviors; or extension of therapeutic services, which consist of reinforcing physical, occupational, speech and other therapeutic programs. (3-19-07)

b. Personal Assistance Services necessary to assist the individual in daily living activities, household tasks, and such other routine activities as the participant or the participant's primary caregiver(s) are unable to accomplish on his own behalf. (3-19-07)

c. Skills training to teach waiver participants, family members, alternative family caregiver(s), or a participant's roommate or neighbor to perform activities with greater independence and to carry out or reinforce habilitation training. Services are focused on training and are not designed to provide substitute task performance. Skills training is provided to encourage and accelerate development in independent daily living skills, self direction, money management, socialization, mobility and other therapeutic programs. (3-19-07)

~~**d.** Residential Habilitation services will not be reimbursed if a participant is receiving psychosocial rehabilitation or partial care services as this is a duplication of services. (3-29-12)~~

02. Chore Services. Chore services which are heavy household maintenance and minor home repairs necessary to maintain the functional use of the home and to provide a clean, sanitary and safe environment. Chore activities include washing windows; moving heavy furniture and shoveling snow to provide safe access inside and outside the home; chopping wood when wood is the participant's primary source of heat; and tacking down loose rugs and flooring. These services are only available when neither the participant, nor anyone else in the household is capable of performing or financially providing for them, and where no other relative, caretaker, landlord, community volunteer/agency or third party payer is capable of or responsible for their provision. In the case of rental property, the

responsibility of the landlord, pursuant to the lease agreement, will be examined prior to any authorization of service. Chore services are limited to the services provided in a home rented or owned by the participant. (3-19-07)

03. Respite. Respite care services are those services provided on a short term basis because of the absence of persons normally providing non-paid care. Respite care services provided under this waiver will not include room and board payments. Respite care services are limited to participants who reside with non-paid caregivers. (3-19-07)

04. Supported Employment. Supported employment which is competitive work in integrated work settings for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work. (3-19-07)

a. Supported employment services rendered under the waiver are not available under a program funded by either the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA). Documentation will be maintained in the file of each individual receiving this service verifying that the service is not otherwise available or funded under the Rehabilitation Act of 1973 as amended, or IDEA. (3-19-07)

b. Federal Financial Participation (FFP) will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following: incentive payments made to an employer of waiver participants to encourage or subsidize employers' participation in a supported employment program; payments that are passed through to beneficiaries of supported employment programs; or payments for vocational training that is not directly related to a waiver participant's supported employment program. (3-19-07)

05. Transportation. Transportation services which are services offered in order to enable waiver participants to gain access to waiver and other community services and resources required by the plan of service. This service is offered in addition to medical transportation required under 42 CFR 440.431.53 and transportation services offered under the State Plan, defined at 42 CFR 440.170(a), and must not replace them. Whenever possible, family, neighbors, friends, or community agencies which can provide this service without charge or public transit providers will be utilized. (3-19-07)

06. Environmental Accessibility Adaptations. Environmental accessibility adaptations which are those interior or exterior physical adaptations to the home, required by the waiver participant's plan of service, which are necessary to ensure the health, welfare, safety of the individual, or which enable the individual to function with greater independence in the home and without which, the waiver participant would require institutionalization. Such adaptations may include the installation of ramps and lifts, widening of doorways, modification of bathroom facilities, or installation of electric and plumbing systems which are necessary to accommodate the medical equipment and supplies necessary for the welfare of the waiver participant, but must exclude those adaptations or improvements to the home which are not of direct medical or remedial benefit to the participant, such as carpeting, roof repair, or central air conditioning. All services must be provided in accordance with applicable State or local building codes. Permanent environmental modifications are limited to modifications to a home rented or owned by the participant or the participant's family when the home is the participant's principal residence. Portable or non-stationary modifications may be made when such modifications can follow the participant to his next place of residence or be returned to the Department. (3-19-07)

07. Specialized Equipment and Supplies. Specialized medical equipment and supplies which include devices, controls, or appliances, specified in the plan of service which enable participants to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. They also include items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State Plan. Items reimbursed with waiver funds must be in addition to any medical equipment and supplies furnished under the State Plan and must exclude those items which are not of direct medical or remedial benefit to the participant. All items must meet applicable standards of manufacture, design and installation. (3-19-07)

08. Personal Emergency Response System. Personal Emergency Response Systems (PERS) which may be provided to monitor waiver participant safety or provide access to emergency crisis intervention for

emotional, medical or environmental emergencies through the provision of communication connection systems. PERS are limited to participants who rent or own their home, who are alone for significant parts of the day, have no regular caretaker for extended periods of time and who would otherwise require extensive routine supervision.

(3-19-07)

09. Home Delivered Meals. Home delivered meals which are designed to promote adequate wavier participant nutrition through the provision and home delivery of one (1) to two (2) meals per day. Home delivered meals are limited to participants who rent or own their own home, who are alone for significant parts of the day and have no regular caretaker for extended periods of time.

(3-19-07)

10. Skilled Nursing. Nursing services are those intermittent nursing services or private duty nursing services which provide individual and continuous care listed in the plan of service which are within the scope of the Nurse Practice Act and are provided by a licensed professional (RN) nurse or licensed practical nurse (LPN) under the supervision of an RN, licensed to practice in Idaho.

(3-19-07)

11. Behavior Consultation/Crisis Management. Behavior Consultation/Crisis Management services which provide direct consultation and clinical evaluation of participants who are currently experiencing or may be expected to experience, a psychological, behavioral, or emotional crisis. This service may provide training and staff development related to the needs of a participant. These services also provide emergency back-up involving the direct support of the participant in crisis.

(3-19-07)

12. Adult Day Care. Adult Day Care is a supervised, structured day program, outside the home of the participant that offer one (1) or more of a variety of social, recreational, health activities, supervision for safety, and assistance with activities of daily living. These activities need to be identified on the plan of service. Adult Day Care cannot exceed thirty (30) hours per week either alone or in combination with developmental therapy, occupational therapy, or IBI.

(3-19-07)

a. Services provided in a facility must meet the building and health standards identified in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)."

(7-1-11)

b. Services provided in a home must meet the standards of home certification identified in IDAPA 16.03.19, "Rules Governing Certified Family Home," and health standards identified in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)."

(7-1-11)

13. Dental Services. Dental services include exams radiographs, diagnostic and preventative services, basic restorations, periodontics, oral surgery, maxillofacial surgery, and adjunctive dental services. These services and the medically necessary dental benefits described in these rules are provided through the Idaho Smiles program. The State's Medicaid dental contract for the Idaho Smiles program includes the complete list of all dental services available to waiver participants. Waiver dental services are limited to participants who are past the month of their twenty-first birthdays. Waiver participants who are under age twenty-one (21) will continue to receive children's dental benefits under the State Plan.

(7-1-12)T

134. Self Directed Community Supports. Participants eligible for the DD Waiver may choose to self-direct their individualized budget rather than receive the traditional waiver services described in this section of rule. The requirements for this option are outlined in IDAPA 16.03.13, "Consumer Directed Services."

(3-19-07)

145. Place of Service Delivery. Waiver services may be provided in the participant's personal residence, a certified family home, day habilitation/supported employment program, or community. The following living situations are specifically excluded as a place of service for waiver services:

(3-19-07)

a. Licensed skilled, or intermediate care facilities, certified nursing facility (NF) or hospital; and

(3-19-07)

b. Licensed Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID); and

(3-19-07)

c. Residential Care or Assisted Living Facility.

(3-19-07)

- d. Additional limitations to specific services are listed under that service definition. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

705. ADULT DD WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

All providers of waiver services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (3-19-07)

01. Residential Habilitation -- Supported Living. When residential habilitation services are provided by an agency, the agency must be certified by the Department as a Residential Habilitation Agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies," and must be capable of supervising the direct services provided. Individuals who provide residential habilitation services in the home of the participant (supported living) must be employed by a Residential Habilitation Agency. Providers of residential habilitation services must meet the following requirements: (3-29-12)

- a. Direct service staff must meet the following minimum qualifications: (3-19-07)
- i. Be at least eighteen (18) years of age; (3-19-07)
 - ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to an plan of service; (3-19-07)
 - iii. Have current CPR and First Aid certifications; (3-19-07)
 - iv. Be free from communicable diseases; (3-19-07)
 - v. Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. Staff previously trained on assistance with medications by a licensed nurse but who have not completed this course must meet this requirement by July 1, 2007. (3-19-07)
 - vi. Residential habilitation service providers who provide direct care or services must satisfactorily complete a criminal background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)
 - vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. (3-19-07)
- b. All skill training for agency direct service staff must be provided by a Qualified Intellectual Disabilities Professional (QIDP) who has demonstrated experience in writing skill training programs. (3-29-12)
- c. Prior to delivering services to a participant, agency direct service staff must complete an orientation program. The orientation program must include the following subjects: (3-29-12)
- i. Purpose and philosophy of services; (3-19-07)
 - ii. Service rules; (3-19-07)
 - iii. Policies and procedures; (3-19-07)
 - iv. Proper conduct in relating to waiver participants; (3-19-07)

- v. Handling of confidential and emergency situations that involve the waiver participant; (3-19-07)
- vi. Participant rights; (3-19-07)
- vii. Methods of supervising participants; (3-19-07)
- viii. Working with individuals with developmental disabilities; and (3-19-07)
- ix. Training specific to the needs of the participant. (3-19-07)
- d.** Additional training requirements must be completed within six (6) months of employment with the residential habilitation agency and include at a minimum: (3-29-12)
 - i. Instructional techniques: Methodologies for training in a systematic and effective manner; (3-19-07)
 - ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (3-19-07)
 - iii. Feeding; (3-19-07)
 - iv. Communication; (3-19-07)
 - v. Mobility; (3-19-07)
 - vi. Activities of daily living; (3-19-07)
 - vii. Body mechanics and lifting techniques; (3-19-07)
 - viii. Housekeeping techniques; and (3-19-07)
 - ix. Maintenance of a clean, safe, and healthy environment. (3-19-07)
- e.** The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed. (3-19-07)
- 02. Residential Habilitation -- Certified Family Home (CFH). (3-29-12)**
 - a.** An individual who provides direct residential habilitation services in his own home must be certified by the Department to operate a certified family home under IDAPA 16.03.19, "Rules Governing Certified Family Homes," and must receive residential habilitation program coordination services provided through the Department, or its contractor, for the residential habilitation services he provides. (3-29-12)
 - b.** CFH providers providing residential habilitation services as a DD Waiver provider must meet the following minimum qualifications: (3-29-12)
 - i. Be at least eighteen (18) years of age; (3-29-12)
 - ii. Be a high school graduate, have a GED, or demonstrate the ability to provide services according to a plan of service; (3-29-12)
 - iii. Have current CPR and First Aid certifications; (3-29-12)
 - iv. Be free from communicable diseases; (3-29-12)
 - v. Each CFH provider of residential habilitation services assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing, or other Department-approved training.

(3-29-12)

vi. CFH providers of residential habilitation services who provide direct care and services must satisfactorily complete a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks;" and (3-29-12)

vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. (3-29-12)

c. All skill training for CFH providers who are providing residential habilitation services must be provided through the Department or its contractor by qualified intellectual disabilities professional (QIDP) who has demonstrated experience in writing skill training programs. (3-29-12)

d. Prior to delivering residential habilitation services to a participant, the CFH provider must complete an orientation training in the following areas as provided by either the Department, or its contractor or both, and include the following areas: (3-29-12)

i. Purpose and philosophy of services; (3-29-12)

ii. Service rules; (3-29-12)

iii. Policies and procedures; (3-29-12)

iv. Proper conduct in relating to waiver participants; (3-29-12)

v. Handling of confidential and emergency situation that involve the waiver participant; (3-29-12)

vi. Participant rights; (3-29-12)

vii. Methods of supervising participants; (3-29-12)

viii. Working with individuals with developmental disabilities; and (3-29-12)

ix. Training specific to the needs of the participant. (3-29-12)

e. Additional training requirements for CFH providers providing residential habilitation waiver services must be completed by the CFH provider within six (6) months of certification date and include a minimum of the following: (3-29-12)

i. Instructional Techniques: Methodologies for training in a systematic and effective manner; (3-29-12)

ii. Managing behaviors: techniques and strategies for teaching adaptive behaviors; (3-29-12)

iii. Feeding; (3-29-12)

iv. Communication; (3-29-12)

v. Mobility; (3-29-12)

vi. Activities of daily living; (3-29-12)

vii. Body mechanics and lifting techniques; (3-29-12)

viii. Housekeeping techniques; and (3-29-12)

ix. Maintenance of a clean, safe, and healthy environment. (3-29-12)

f. The Department or its contractor will be responsible for providing on-going training to the CFH provider of residential habilitation specific to the needs of the participant as needed. (3-29-12)

03. Chore Services. Providers of chore services must meet the following minimum qualifications: (3-19-07)

a. Be skilled in the type of service to be provided; and (3-19-07)

b. Demonstrate the ability to provide services according to a plan of service. (3-19-07)

c. Chore service providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)

04. Respite. Providers of respite care services must meet the following minimum qualifications: (3-19-07)

a. Meet the qualifications prescribed for the type of services to be rendered or must be an individual selected by the waiver participant, the family or his guardian; (3-19-07)

b. Have received care giving instructions in the needs of the person who will be provided the service; (3-19-07)

c. Demonstrate the ability to provide services according to an plan of service; (3-19-07)

d. Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; (3-19-07)

e. Be willing to accept training and supervision by a provider agency or the primary caregiver of services; and (3-19-07)

f. Be free of communicable diseases. (3-19-07)

g. Respite care service providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)

05. Supported Employment. Supported Employment services must be provided by an agency capable of supervising the direct service and be accredited by the Commission on Accreditation of Rehabilitation Facilities; or other comparable standards; or meet State requirements to be a State approved provider. Supported employment service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)

06. Transportation. Providers of transportation services must: (3-19-07)

a. Possess a valid driver's license; and (3-19-07)

b. Possess valid vehicle insurance. (3-19-07)

07. Environmental Accessibility Adaptations. Environmental accessibility adaptations services must: (3-19-07)

a. Be done under a permit, if required; and (3-19-07)

b. Demonstrate that all modifications, improvements, or repairs are made in accordance with local and state housing and building codes. (3-19-07)

- 08. Specialized Equipment and Supplies.** Specialized Equipment and Supplies purchased under this service must: (3-19-07)
- a.** Meet Underwriter's Laboratory, FDA, or Federal Communication Commission standards where applicable; and (3-19-07)
 - b.** Be obtained or provided by authorized dealers of the specific product where applicable. This may include medical supply businesses or organizations that specialize in the design of the equipment. (3-19-07)
- 09. Personal Emergency Response System.** Personal Emergency Response Systems (PERS) must demonstrate that the devices installed in waiver participants' homes meet Federal Communications Standards or Underwriter's Laboratory standards or equivalent standards. (3-19-07)
- 10. Home Delivered Meals.** Services of Home Delivered Meals under this Subsection may only be provided by an agency capable of supervising the direct service and must: (7-1-11)
- a.** Provide assurances that each meal meets one third (1/3) of the Recommended Dietary Allowance as defined by the Food and Nutrition Board of National Research Council or meet physician ordered individualized therapeutic diet requirement; (3-19-07)
 - b.** Must provide assurances that the meals are delivered on time and demonstrate the ability to deliver meals at a minimum of three (3) days per week; (3-19-07)
 - c.** Maintain documentation reflecting the meals delivered are nutritionally balanced and made from the highest U.S.D.A. Grade for each specific food served; (3-19-07)
 - d.** Provide documentation of current driver's license for each driver; and (3-19-07)
 - e.** Must be inspected and licensed as a food establishment by the District Health Department. (3-19-07)
- 11. Skilled Nursing.** Nursing service providers must provide documentation of current Idaho licensure as a licensed professional nurse (RN) or licensed practical nurse (LPN) in good standing. (3-19-07)
- 12. Behavior Consultation or Crisis Management.** Behavior Consultation or Crisis Management Providers must meet the following: (3-19-07)
- a.** Work for a provider agency capable of supervising the direct service or work under the direct supervision of a licensed psychologist or Ph.D. in Special Education, with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (3-19-07)
 - b.** Must have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, special education or a closely related course of study; or (3-19-07)
 - c.** Be a licensed pharmacist; or (3-19-07)
 - d.** Be a Qualified Intellectual Disabilities Professional (QIDP). (3-19-07)
 - e.** Emergency back-up providers must meet the minimum residential habilitation provider qualifications described under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (3-19-07)
 - f.** Behavior consultation or crisis management providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)
- 13. Adult Day Care.** Providers of adult day care services must notify the Department or its contractor

for residential habilitation program coordination, on behalf of the participant, if the adult day care is provided in a certified family home other than the participant's primary residence. The adult day care provider must be capable of supervising direct services, provide services as identified on the plan of service, provide care and supervision identified on the participant's residential habilitation plan, and must meet the following minimum qualifications:

(3-29-12)

a. Demonstrate the ability to communicate and deal effectively, assertively, and cooperatively with a variety of people; (3-19-07)

b. Be a high school graduate, or have a GED or demonstrate the ability to provide services according to the plan of service; (3-19-07)

c. Be free from communicable disease; (3-19-07)

d. Adult day care providers who provide direct care or services must satisfactorily complete a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; (4-2-08)

e. Demonstrate knowledge of infection control methods; and (3-19-07)

f. Agree to practice confidentiality in handling situations that involve waiver participants. (3-19-07)

14. Dental Services. Providers are credentialed by the contractor to ensure they meet the licensing requirements of the Idaho Board of Dentistry. Providers' duties are based on the contract requirements and are monitored and enforced by the contractor. (7-1-12)T

145. **Service Supervision.** The plan of service which includes all waiver services is monitored by the plan monitor or targeted service coordinator. (3-19-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.25 - IDAHO MEDICAID ELECTRONIC HEALTH RECORD (EHR) INCENTIVE PROGRAM

DOCKET NO. 16-0325-1201 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2012.

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 by Sections 56-202, 56-203, and 56-1054, Idaho Code; also the American Reinvestment and Recovery Act of 2009 (ARRA), Section 4201, and 42 CFR Part 495.

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 July 18, 2012.

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 Department is adopting a new chapter of rules to administer the Medicaid Electronic Health Record (EHR) Incentive Program in which it has opted to participate. Section 4201 of the ARRA established this voluntary program to disburse incentive payments to Medicaid providers who adopt, implement, or upgrade to become meaningful users of certified electronic health record systems.

This new chapter of rules will encompass the Medicaid EHR Incentive Program state criteria for eligible professionals and eligible hospitals.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is being done to confer a benefit in accordance with the ARRA, Section 4201 and 42 CFR Part 495.

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 state general fund impact is neutral for this rulemaking. The Department will use existing resources to make this program operational. Through the authority of the ARRA the Department will pay 100% federally funded incentive payments to eligible providers in Idaho to purchase and maintain certified Electronic Health Record systems.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the federal Centers for Medicare and Medicaid Services (CMS) is implementing the program and the money is enhancing the efficiency of providers and improving patients' experience. Negotiated rulemaking was not deemed feasible as this docket is a temporary rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, 42 CFR Part 495, revised October 1, 2011 (<http://www.gpo.gov/fdsys/pkg/CFR-2011-title42-vol5/pdf/CFR-2011-title42-vol5.pdf>), is being incorporated by reference into these rules to give it the force and effect of law under these rules. These federal regulations are not being reprinted in this chapter of rules due to its length and format and because of the cost for republication.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary and proposed rule, contact Robert Kellerman at (208) 364-1994.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2012.

DATED this 14th day of June, 2012.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 16-0325-1201**

**IDAPA 16
TITLE 03
CHAPTER 25**

16.03.25 - IDAHO MEDICAID ELECTRONIC HEALTH RECORD (EHR) INCENTIVE PROGRAM

000. LEGAL AUTHORITY.

01. Rulemaking Authority. Under Sections 56-202, 56-203, and 56-1054, Idaho Code, the Idaho Department of Health and Welfare has the authority to adopt rules regarding the Idaho Medicaid Electronic Health Record (EHR) Incentive Program. (7-1-12)T

02. General Administrative Authority. The American Reinvestment and Recovery Act of 2009 (ARRA), Section 4201, and 42 CFR Part 495, provide the basic authority for administration of this federal program. (7-1-12)T

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.03.25, "Idaho Medicaid Electronic Health Record (EHR) Incentive Program." (7-1-12)T

02. Scope. These rules: (7-1-12)T

a. Establish the Medicaid Electronic Health Record (EHR) Incentive Program for Idaho covered under 42 CFR Part 495. (7-1-12)T

b. Provide the Medicaid EHR Incentive Program criteria for participation of qualified eligible professionals and hospitals that adopt, implement, or upgrade to become meaningful users of certified electronic health record systems in accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), Section 4201. (7-1-12)T

c. Provide for the audit of providers receiving incentive payments. (7-1-12)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection at the location identified under Subsection 005.06 of these rules and in accordance with Section 006 of these rules. (7-1-12)T

003. ADMINISTRATIVE APPEALS.

All contested cases are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-12)T

004. INCORPORATION BY REFERENCE.

The Department has incorporated by reference 42 CFR Part 495, "Medicare and Medicaid Programs," revised October 1, 2011. A hardcopy is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations website at: <http://www.gpo.gov/fdsys/pkg/CFR-2011-title42-vol5/pdf/CFR-2011-title42-vol5.pdf>. (7-1-12)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (7-1-12)T

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. (7-1-12)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (7-1-12)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (7-1-12)T

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (7-1-12)T

06. Division of Medicaid. The Department's Division of Medicaid is located at 3232 Elder Street, Boise, ID 83705; Phone: (208) 334-5747. (7-1-12)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT REQUESTS.

01. Confidentiality of 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." (7-1-12)T

02. Public Records Act. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (7-1-12)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of this chapter of rules the following terms apply: (7-1-12)T

01. Acute Care Hospital. A health care facility, including a critical access hospital, with a CMS Certification Number that ends in 0001-0879 or 1300-1399. An acute care hospital: (7-1-12)T

a. Must have ten percent (10%) Medicaid patient discharges; (7-1-12)T

b. Is a primary health care facility where the average length of patient stay is twenty-five (25) days or fewer. (7-1-12)T

02. Adopt, Implement, or Upgrade (AIU). (7-1-12)T

a. Acquire, purchase, or secure access to certified EHR technology; (7-1-12)T

b. Install or commence utilization of certified EHR technology capable of meeting meaningful use requirements; or (7-1-12)T

c. Expand the available functionality of certified EHR technology capable of meeting meaningful use requirements at the practice site, including staffing, maintenance, and training, or upgrade from existing EHR technology to certified EHR technology. (7-1-12)T

03. Attestation. Signature as a witness by each professional or hospital who applies to the EHR program signifying the information they have provided is true and genuine and affirms that they meet the EHR incentive payment eligibility criteria. (7-1-12)T

04. Border States. The border states for Idaho are: Washington, Oregon, Nevada, Utah, Wyoming, and Montana. (7-1-12)T

05. Certified EHR Technology. As defined in 42 CFR Section 495.4 (2010) and 45 CFR Section 170.102 (2010 and 2011), in accordance with the Office of the National Coordinator for Health Information Technology EHR certification criteria. (7-1-12)T

06. Children's Hospital. As referenced in 42 CFR Section 495.302, a separately certified hospital, either freestanding or hospital-within-hospital, that has a CMS Certification Number that ends in 3300–3399 and predominantly treats individuals under twenty-one (21) years of age. (7-1-12)T

07. CMS. Centers for Medicare and Medicaid Services. (7-1-12)T

08. Critical Access Hospital (CAH). A small, generally geographically remote facility that provides outpatient and inpatient hospital services to people in rural areas. The designation was established by law, for special payments under the Medicare program. A critical access hospital: (7-1-12)T

a. Is located in a rural area and provides 24-hour emergency services; (7-1-12)T

b. Has an average length-of-stay for its patients of ninety-six (96) hours or less; (7-1-12)T

c. Is located more than thirty-five (35) miles (or more than fifteen (15) miles in areas with mountainous terrain) from the nearest hospital or is designated by the State as a “necessary provider”; and (7-1-12)T

d. Has no more than twenty-five (25) beds. (7-1-12)T

09. CY. Calendar Year. (7-1-12)T

10. Dentist. A person who meets all the applicable requirements to practice as a licensed dentist under IDAPA 19.01.01, “Rules of the Idaho State Board of Dentistry.” (7-1-12)T

11. Department. The Idaho Department of Health and Welfare. (7-1-12)T

12. **EHR.** Electronic Health Record. (7-1-12)T
13. **Eligible Hospital.** An acute care hospital with at least ten percent (10%) Medicaid patient volume or a children's hospital. (7-1-12)T
14. **Eligible Professional.** A physician, dentist, nurse practitioner (including a nurse-midwife nurse practitioner), or a physician assistant practicing in a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC) that is led by a physician assistant and meets patient volume requirements described in 42 CFR Section 495.306. (7-1-12)T
15. **Eligible Provider.** Eligible hospital or eligible professional. (7-1-12)T
16. **Eligible Provider, Hospital-Based.** In accordance with 42 CFR Section 495.4, an eligible provider who furnishes ninety (90) percent or more of his or her covered professional services in a hospital setting in the CY preceding the payment year. A setting is considered a hospital setting if it is a site of service that would be identified by the codes used in the HIPAA standard transactions as an inpatient hospital, or emergency room setting. (7-1-12)T
17. **Encounter.** (7-1-12)T
- a. For an eligible hospital either may apply: (7-1-12)T
- i. Services rendered to an individual per inpatient discharge; or (7-1-12)T
- ii. Services rendered to an individual in an emergency department on any one (1) day; (7-1-12)T
- b. For an eligible professional, services rendered to an individual on any one (1) day. (7-1-12)T
18. **Enrolled Provider.** A hospital or health care practitioner who is actively registered with the Department's Idaho Medicaid EHR Incentive Program. (7-1-12)T
19. **Federal Fiscal Year (FFY).** The federal fiscal year is from October 1 to September 30. (7-1-12)T
20. **Federally Qualified Health Center (FQHC).** A federal designation for a medical entity that meets the requirements of 42 U.S.C. Section 1395x(aa)(4). The FQHC may be located in either a rural or urban area designated as a shortage area or in an area that has a medically underserved population. (7-1-12)T
21. **Hospital-Based.** An eligibility criterion that excludes an eligible professional from participating in the Medicaid EHR Incentive Program when an eligible professional furnishes 90 percent (90%) or more of the eligible professional's Medicaid covered services in a hospital emergency room (place of service code 23), or inpatient hospital (place of service code 21) in the CY preceding the payment year. (7-1-12)T
22. **Meaningful EHR User.** An eligible provider that, for an EHR reporting period for a payment year, demonstrates (in accordance with 42 CFR Section 495.8) meaningful use of certified EHR technology by meeting the applicable objectives and associated measures in 42 CFR Section 495.6 and as prescribed by 42 CFR Part 495. (7-1-12)T
23. **Nurse Practitioner (NP).** A licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," and as defined in 42 CFR Section 440.166. (7-1-12)T
24. **Payment Year.** (7-1-12)T
- a. The CY for an eligible professional; or (7-1-12)T
- b. The FFY for an eligible hospital. (7-1-12)T

25. Physician. A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree and licensed to practice medicine by a State or United States territory, and who performs services as defined in 42 CFR Section 440.50. (7-1-12)T

26. Physician Assistant. A person who meets all the applicable requirements to practice as licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," and who performs services as defined in 42 CFR Section 440.60. (7-1-12)T

011. -- 099. (RESERVED).

**ELIGIBILITY DETERMINATION
(Sections 100 through 399)**

100. ELECTRONIC HEALTH RECORD (EHR) INCENTIVE PROGRAM ELIGIBILITY.

01. Providers and Hospitals Eligible to Participate in the EHR Incentive Program. The Department administers the federal EHR Incentive Program that pays incentive payments to eligible providers and eligible hospitals that adopt, implement, upgrade, and meaningfully use certified EHR technology in accordance with the provisions of 42 CFR Part 495. Providers and hospitals eligible to participate in the EHR incentive program are identified in 42 CFR Section 495.304. (7-1-12)T

02. Department Reviewing and Auditing of EHR Incentive Program Participants. As authorized by 42 CFR Part 495, the Department reviews and audits all professionals and hospitals participating in the EHR incentive program. The Department reviews all practice, documentation, and data related to the EHR technology to determine whether professionals and hospitals participating in the EHR incentive program are eligible and complying with the state and federal rules and regulations. The Department will be reviewing and auditing the EHR program. EHR program participants must meet the following requirements: (7-1-12)T

- a.** Patient volume thresholds and calculations, as outlined in 42 CFR Sections 495.304 and 495.306. (7-1-12)T
- b.** Eligibility criteria and payment limitations, as outlined in 42 CFR Sections 495.10, 495.304, 495.306, 495.308, and 495.310. (7-1-12)T
- c.** Attestations and compliance demonstrations including, at a minimum: (7-1-12)T
 - (i)** Attestations that certified EHR technology has been adopted, implemented, or upgraded; and (7-1-12)T
 - (ii)** Demonstrations of meaningful use, as outlined in 42 CFR Sections 495.6 and 495.8. (7-1-12)T
- d.** The payment process and incentive payment amounts, as outlined in 42 CFR Sections 495.310, 495.312, 495.314, and 495.316. (7-1-12)T
- e.** Additional issues regarding EHR incentive payments program eligibility, participation, documentation, and compliance as outlined in 42 CFR Part 495. (7-1-12)T

101. -- 199. (RESERVED).

200. EHR: FEDERALLY INITIATED PROGRAM.

01. Voluntary Federal Program. The EHR Incentive Program is a federal program, using federal funding, and is voluntary for providers. The Department has no obligation to pay incentive payments to the provider once federal funding is exhausted. (7-1-12)T

02. Idaho Sanctions/Outstanding Debt. (7-1-12)T

a. To be eligible for incentive payments, providers must be free of both state and federal level sanctions and exclusions as provided in Section 56-209h, Idaho Code, IDAPA 16.05.07, and 42 CFR Part 455. Providers who are on either the Idaho Medicaid Provider Exclusion List (<http://www.healthandwelfare.idaho.gov/Portals/0/Providers/Medicaid/ProviderExclusionList.pdf>) or on the federal List of Excluded Individuals/Entities (<http://exclusions.oig.hhs.gov/>) are not eligible to participate in the EHR Incentive Program. (7-1-12)T

b. The Department will reference the Idaho State Sanctions and the Outstanding Debt-Termination Exclusion Lists. Federal level checks with the Office of the Inspector General (OIG) will be conducted through the Idaho Incentive Management System (IIMS) and CMS interface. (7-1-12)T

c. Detection for improper payment will be conducted both at the state program level and at the federal level, as referenced in 42 CFR Sections 495.368(a)(1)(i) & (ii). (7-1-12)T

201. -- 299. (RESERVED).

300. EHR: ADDITIONAL PROVIDER QUALIFICATIONS.

01. Out-of-State Professionals and Hospitals. EHR incentive payments will be made only to Idaho Medicaid providers (professionals with an Idaho Medicaid Provider Agreement), unless they predominantly practice in an RHC or FQHC that is an Idaho Medicaid provider. (7-1-12)T

02. Patient Volume Calculation. Encounters for out-of-state Medicaid members (Border States only) may be included in the patient volume calculation only if needed to meet patient volume threshold. Out-of-state encounters must then be included in the numerator and the denominator of the patient volume calculation. (7-1-12)T

03. Eligible Professionals (EP) Licensure. The Department will consider a provisional license the same as licenses. (7-1-12)T

300. -- 399. (RESERVED).

400. STATE OPTIONS ELECTIONS UNDER THE EHR INCENTIVE PROGRAM.

In addition to the federal provisions in the ARRA, Section 4201, the Idaho EHR incentive program is governed by federal regulations at 42 CFR Part 495. In compliance with the requirements of federal law, the Department establishes the following State options under the Idaho EHR incentive program: (7-1-12)T

01. Calculating Patient Volume. For purposes of calculating patient volume as required by 42 CFR Section 495.306, the Department has elected eligible professionals and eligible hospitals to use 42 CFR Section 495.306(c). (7-1-12)T

02. Patient Volume Methodology. For eligible professionals who use a group proxy patient volume methodology outlined in 42 CFR Section 495.306(h), the EP must see at least one (1) Medicaid or medically underserved patient before he may apply for a Medicaid EHR incentive payment. (7-1-12)T

03. Hospital Fiscal Year. The twelve (12) month period defined by a hospital for financial reporting purposes that will be used to comply with 42 CFR Section 495.310(g)(1)(i)(B). (7-1-12)T

04. Determination of Hospital-Based. In accordance with 42 CFR Section 495.4(2)(ii)(B), in order to distinguish “hospital-based eligible professional” from “eligible professional (EP)” during the program year, the Department reviews the quantity and place of services rendered for the CY preceding the program year to which the payment will apply. (7-1-12)T

401. -- 999. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1201 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, 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 July 18, 2012.

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

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

These rules are being amended to update the cost of the Department's criminal history and background check. The fee amount is based on increased costs for services provided by the Idaho State Police (ISP). ISP increased their costs to the Department by \$15 per check. Section 56-1004A, Idaho Code, states that applicants are responsible for the cost of these checks unless otherwise provided by Department rules. The total fee amount will be phased in over a period of time. The Department will only increase its costs when ISP increases its fees.

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

In order to protect children and vulnerable adults, the Department requires certain providers and others to pass a criminal history and background check. Statutes require an applicant for a criminal history check to cover the cost of the check which was increased for services provided by ISP.

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

The fee amount for a Department fingerprint-based criminal history and background check is being increased by \$15. The fee increase for the temporary rule is needed to avoid immediate danger to children and vulnerable adults the Department is responsible for protecting.

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:

Based on an estimate of 24,000 background checks, the annual amount of additional costs to the Department for State Fiscal Year (SFY) 2013 will be \$360,000. Of that amount, approximately \$36,000 may be paid with state general fund money.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Department is required under Section 56-1004A, Idaho Code, to have an applicant cover the cost of a criminal history check which is being increased for ISP services. It was not feasible to conduct negotiated rulemaking because this action was necessary to meet statutory requirements.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Fernando Castro, at (208) 332-7999.

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 July 25, 2012.

DATED this 10th day of May, 2012.

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 TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR FEE DOCKET NO. 16-0506-1201**

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.

The fee for a Department fingerprint-based criminal history and background check is ~~fifty five~~ seventy dollars (~~\$5570~~) for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. ~~(4-9-09)~~(7-1-12)T

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.09 - CONSUMER PROTECTION IN ANNUITY TRANSACTIONS

DOCKET NO.18-0109-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

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

Thursday -- July 19, 2012 -- 1:00 p.m. (MDT)

**Idaho Department of Insurance
3rd Floor - Conference Room A
700 W. State Street, Boise, ID**

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

Provide written comments or attend the meeting scheduled above to provide input.

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

IDAPA 18.01.09 concerns suitability standards applicable to insurers and insurance producers in recommending annuities to consumers.

At a minimum, it is expected that language will be changed to refer to the correct name of a rule or standard (the current reference is to NASD, which is now known as FINRA). The FINRA rule is being updated this summer, so the rulemaking may include a reference to the updated language. Additionally, NAIC Model Regulation 275 Suitability in Annuity Transactions has been updated, so the rulemaking may incorporate some or all of those changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule (if one is available) contact Tom Donovan, (208)334-4214, or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and Tom Donovan and must be delivered on or before July 20, 2012.

DATED this 8th day of June, 2012.

William Deal
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise ID 837290-0043
Phone: (208) 334-4250
Fax: (208)334-4398

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.19 - INSURANCE RATES AND CREDIT RATING
DOCKET NO. 18-0119-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211 and 41-1843, Idaho Code.

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

Friday -- July 20, 2012 -- 10:30 a.m. (MDT)

**Idaho Department of Insurance
3rd Floor - Conference Room A
700 W. State Street, Boise ID**

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

Provide written comments or attend the meeting scheduled above to provide input.

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

Revise language in IDAPA 18.01.19.100 to permit insurers to use a neutral credit factor or score against which to measure compliance with Section 41-1843, Idaho Code, both at initial rating and upon renewal.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule (if one is available) contact Tom Donovan, (208)334-4214, or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2012.

DATED this 8th day of June, 2012.

William Deal
Department of Insurance
700 West State Street, 3rd Floor
Boise, ID 83720-0043
Phone: (208)334-4250
Fax: (208) 334-4398

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211, 41-401, and 41-1089 (effective 7/1/13), Idaho Code.

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

Thursday -- July 19, 2012 -- 3:00 p.m. (MDT)

**Idaho Department of Insurance
3rd Floor - Conference Room A
700 W. State Street, Boise, ID**

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

Provide written comments or attend the meeting scheduled above to provide input.

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

Adds vendor of portable electronic insurance as a new type of limited lines insurance producer license and the requisite fees to the DOI's general fee rule, pursuant to House Bill 649 (effective 7/1/2013).

Increases fees for fingerprints as a result of increased costs from the Idaho State Police.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule (if available) contact Tom Donovan, (208)334-4214, or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2012.

DATED this 8th day of June, 2012.

William Deal
Department of Insurance
700 West State Street, 3rd Floor
Boise ID 83720-0043
Phone: (208)334-4250
Fax: (208) 334-4398

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.56 - REBATES AND ILLEGAL INDUCEMENTS
TO OBTAINING TITLE INSURANCE BUSINESS RULES
DOCKET NO. 18-0156-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211, 41-1314, and 41-2708(3), Idaho Code.

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

Wednesday -- July 18, 2012 -- 1:00 p.m. (MDT)

Idaho Department of Insurance
3rd Floor - Conference Room A
700 W. State Street, Boise ID

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

Provide written comments or attend the meeting scheduled above to provide input.

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

Language will be added to permit title agents to provide attorneys and appraisers plat maps and copies of CCRs without charge.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule (if available) contact Tom Donovan, (208)334-4214, or tom.donovan@doi.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2012.

DATED this 8th day of June, 2012.

William Deal
Department of Insurance
700 West State Street, 3rd Floor
Boise ID 83720-0043
Phone: (208)334-4250
Fax: (208) 334-4398

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 58-104(6), 58-105 and 38-1304, Idaho Code.

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

Monday, July 16, 2012 -- 1:00 p.m. to 5:00 p.m.

**Idaho Department of Lands
Garnet Conference Room
300 North 6th Street, Suite 103
Boise, Idaho**

**Monday, July 23, 2012
1:00 p.m. to 4:00 p.m.
and 5:30 p.m. to 8:30 p.m.**

**Idaho Department of Lands
Sundance Conference Room
3284 West Industrial Loop
Coeur d'Alene, Idaho**

Additional meetings may be scheduled as needed through July 23, 2012.

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

Please contact Ara Andrea at (208) 769-1525 or aandrea@idl.idaho.gov to be added to the e-mail list of interested parties. This list will be used to keep people informed of the rulemaking process.

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

The Idaho Forest Practices Act Advisory Committee (FPAAC) is comprised of 9 voting members across the state of Idaho representing family forest owners, industrial forest owners, fisheries biologists, citizens at large, and logging operators. This committee is statutorily charged with advising the Idaho State Board of Land Commissioners, in cooperation with the Idaho Department of Lands (IDL), in rulemaking matters associated with the Idaho Forest Practices Act. As a result of quadrennial water-quality audits conducted by the Idaho Department of Environmental Quality (IDEQ) in 2000 and 2004, FPAAC has been working over the last 10 years to develop a science-based shade/streamside retention rule that is based on Idaho forest riparian data. The proposed shade rule will allow forest landowners to select from two options which are meant to address both shade and large wood recruitment in streams. In addition to the shade rule, the FPAAC committee has identified and approved other minor FPA rule changes since 2006. The proposed changes include:

- * Recognition of all formal land-management agreements with US Fish & Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS)
- * Increased flexibility of landowners and operators to perform timber-salvage operations following wildfire, insect infestations and wind events;
- * Protection of soils and riparian areas from any ground-based equipment usage in steep, unstable or stream-adjacent areas;
- * Assignment of reforestation responsibility to the landowner at the time of harvest;
- * Clearer definitions of wet areas and the associated equipment-exclusion areas;
- * Lower stocking minimums for drier, southern forest types; and
- * New science-based streamside-tree-retention minima for Class I streams (shade rule) that allow forest landowners to select between two options.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Ara Andrea at (208) 769-1525 or aandrea@idl.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2012.

DATED this 15th day of May, 2012.

Ara Andrea
Service & Regulatory Program Manager
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, Idaho 83815
(208) 769-1525/Fax (208) 769-1524
aandrea@idl.idaho.gov

IDAPA 20 - DEPARTMENT OF LANDS

20.03.14 - RULES GOVERNING GRAZING, FARMING, CONSERVATION, NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE LEASES

DOCKET NO. 20-0314-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

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

Wednesday, July 11, 2012 -- 1:00 pm to 4:30 pm
Thursday, July 19, 2012 -- 1:00 pm to 4:30 pm
Wednesday, July 25, 2012 -- 1:00 pm to 4:30 pm
Wednesday, August 1, 2012 -- 1:00 pm to 4:30 pm

Idaho Department of Lands, Garnet Conference Room
300 North 6th Street, Boise, Idaho

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: Please contact Neil Crescenti at (208) 334-0278 or ncrescenti@idl.idaho.gov to be added to the email list of interested persons. This list will be used to keep people informed of the rulemaking process.

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

The Department has drafted proposed changes to the current rule to be used as a starting point for negotiation. Key changes include:

- Addition of requirements for management proposals per Senate Bill 1271 to Section 020.02.
- Clarification of the appeals process procedures associated with conflicted lease applications in Section 020.02.
- Rewording of Subsection 040.01 to broaden language applicable to multiple lease activities.
- Removal of Section 021 - Rights Reserved to the Department, which is addressed contractually through the Department's lease templates.
- Removal of Section 054 - Cropland Lease Hardship Claims, which will be addressed programmatically.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Neil Crescenti at (208) 334-0278 or ncrescenti@idl.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 1, 2012.

DATED this 15th day of May, 2012.

Neil Crescenti, Program Manager
Grazing, Farming and Conservation
Idaho Department of Lands

300 N 6th Street, Suite 103
P.O. Box 83720, Boise, ID 83720
(208) 334-0278 / Fax (208) 334-3698

IDAPA 20 - DEPARTMENT OF LANDS

20.03.15 - THE ISSUANCE OF GEOTHERMAL RESOURCE LEASES

DOCKET NO. 20-0315-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 58-104(6), 58-105, and 47-1603, Idaho Code.

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

Thursday, July 12, 2012 -- 8:30 a.m. to 12:00 p.m.

Thursday, July 19, 2012 -- 8:30 a.m. to 12:00 p.m.

Thursday, July 26, 2012 -- 8:30 a.m. to 12:00 p.m.

**Idaho Department of Lands, Garnet East Conference Room
300 North 6th Street, Suite 103, Boise, Idaho**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: Please contact Bob Pietras at (208) 334-0279 or bpietras@idl.idaho.gov to be added to the e-mail list of interested parties. This list will be used to keep people informed of the rulemaking process.

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

The Department has drafted proposed changes to the current rule to be used as a starting point for negotiation. Key changes include deletion of the following three sections which were the focus of industries concerns.

- Section 055.06 – Shut Downs
- Section 055.08 – Sampling
- Section 056.04 – By-products

Other proposed deletions relate to “contract” language that is more appropriately addressed in the lease template. Site- and condition-specific language can then be negotiated with applicants on a case-by-case basis. Another proposed change includes clarifying the requirements and process for lease assignments (Section 075).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Bob Pietras at (208) 334-0279 or bpietras@idl.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2012.

DATED this 19th day of June, 2012.

Bob Pietras
Program Manager, Commercial-Energy Resources
Idaho Department of Lands
300 N 6th Street, Suite 103
Boise, Idaho 83720
(208) 334-0279 / Fax (208) 334-3698
bpietras@idl.idaho.gov

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1204

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-5221(1) and 63-105A, Idaho Code.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

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

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

Rule 600 is being amended to comply with recently enacted HB356 which requires applicants for certain property tax exemptions to be notified of the decision to grant or deny the application by May 15. The rule is being amended to state that for all exemptions requiring an application, the applicant will be notified of the decision of the county commissioners by May 15 unless a different date is provided in the exemption statute. The rule further will provide that for all property subject to assessment by the State Tax Commission the application for any exemption shall be included with the operator's statement.

Rule 803 is being amended to comply with Section 63-1305A, Idaho Code, requiring that the taxing district first budgets the maximum amount of property tax permitted pursuant to section 63-802, Idaho Code, including any foregone amount. This requirement shall be deemed to have been met if, despite additional budget allowed pursuant to Section 63-802, Idaho Code, every fund used by the taxing district levies at the maximum levy rate provided by law, or, if no maximum levy rate is provided, the fund levies the maximum permitted budget amount. To the extent necessary to enable all previously accrued foregone amounts to be levied, the taxing district may need to use additional funds within which it is permitted to levy property taxes before levying as permitted pursuant to Section 63-1305A, Idaho Code. Instructions are needed in order to implement recently enacted HB697 with respect to the required use of foregone amount.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact Alan Dornfest (208) 334-7544.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned.

DATED this 11th day of June, 2012.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
THE OWYHEE RIVER WATERSHED TMDL TEMPERATURE ADDENDUM
(HUC 17050104, 17050105 & 17050107)

DOCKET NO. 58-0000-1208

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 Owyhee River Watershed Total Maximum Daily Load (TMDL) Temperature Addendum.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Owyhee River Watershed Total Maximum Daily Load (TMDL) Temperature Addendum. 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 Owyhee River Watershed TMDL Temperature Addendum includes the Upper Owyhee (HUC 17050104), South Fork Owyhee (HUC 17050105), and North and Middle Owyhee (HUC 17050107). The TMDL addresses ten (10) assessment units (AUs)/pollutant combinations listed as impaired on Idaho's 2010 Section 303(d) list, twenty-five (25) AUs previously covered by temperature TMDLs that are replaced by the Owyhee River Watershed TMDL Temperature Addendum using the Potential Natural Vegetation method, and one (1) unlisted but impaired AU. 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/owyhee-upper-subbasin> or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 8th day of June, 2012.

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 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0103-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

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

To delay scheduled contribution rate increases for employers and employees.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 2, 2012, Idaho Administrative Bulletin, [Vol. 12-5, pages 244 through 247](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 5th day of June, 2012.

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

DOCKET NO. 59-0103-1201 - 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 12-5, May 2, 2012, pages 244 through 247](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2013 Idaho State Legislature for final adoption.

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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 July 25, 2012 unless otherwise listed.
(Temp & Prop) indicates the rule is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701

02-0214-1201, Rules for Weights and Measures. Incorporates by reference the 2013 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.

02-0612-1201, Rules Pertaining to the Idaho Fertilizer Law. Incorporates by reference the 2013 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

02-0641-1201, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001. Incorporates by reference the 2013 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

IDAPA 08 - STATE BOARD OF EDUCATION P.O. Box 83720, Boise, ID 83720-0037

08-0202-1201, Rules Governing Uniformity. Requires candidates seeking only the K-12 option to take methods courses for Health and Physical Education endorsements; requires a minimum 3 years of classroom experience working with special needs students to obtain a Director of Special Education and Related Services endorsement; a generalist endorsement for an exceptional child certificate includes completion of an internship and student teaching in a special education setting.

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

16-0202-1201, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission. Incorporates by reference the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2013-1.

16-0309-1203, Medicaid Basic Plan Benefits. (Temp & Prop) Aligns rule with federal law that allows for coverage of tobacco cessation products for pregnant women and children when their physician determines that the products are necessary and safe for the health of the participant and the baby. Failure to align rule with federal law may result in loss of federal matching funds. Additional change eliminates the reference to the unit dose fee for the dispensing of prescription medications to align rule with Medicaid State Plan and Medicaid reimbursement methodology.

16-0310-1204, Medicaid Enhanced Plan Benefits. (Temp & Prop) Conforms rule to state law changes by providing dental benefits to participants on the aged and disabled (A&D) waiver and the developmental disability (DD) waiver per state law.

16-0325-1201, Idaho Medicaid Electronic Health Record (EHR) Incentive Program. (Temp & Prop) New chapter establishes procedures and criteria for disbursement of incentive payments to Medicaid providers that adopt, implement, or upgrade to a certified electronic health record system in accordance with the American Recovery and Reinvestment Act of 2009.

16-0506-1201, Criminal History and Background Checks. (Temp & Prop) Increases cost for a Department fingerprint-based criminal history and background check by \$15 to cover the increased cost for these services that are provided by the Idaho State Police. Increase will be phased in over time and will only increase when ISP increases its fees.

NOTICES OF NEGOTIATED RULEMAKING

Department of Agriculture

02-0303-1201, Rules Governing Pesticide and Chemigation Use and Application

02-0602-1201, Rules Pertaining to the Idaho Commercial Feed Law (2nd Notice)

02-0613-1201, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho

02-0614-1201, Rules Governing Annual Bluegrass (*Poa Annua*)

02-0616-1201, Rules Governing Honey Standards

02-0631-1201, Rules Governing Noxious Weed Free Forage and Straw

02-0633-1201, Organic Food Product Rules

02-0635-1201, Rules Governing Rough Bluegrass (*Poa Trivialis*)

State Board and Department of Education

08-0111-1201, Registration of Postsecondary Educational Institutions and Proprietary Schools

08-0204-1201, Rules Governing Public Charter Schools

08-0301-1201, Rules of the Public Charter School Commission

Department of Insurance

18-0109-1201, Consumer Protection in Annuity Transactions

18-0119-1201, Insurance Rates and Credit Rating

18-0144-1201, Schedule of Fees, Licenses and Miscellaneous Charges

18-0156-1201, Rebates and Illegal Inducements to Obtaining Title Insurance Business

Department of Lands

20-0201-1201, Rules Pertaining to the Idaho Forest Practices Act (2nd Notice)

20-0314-1201, Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases (2nd Notice)

20-0315-1201, The Issuance of Geothermal Resource Leases

State Tax Commission

35-0103-1204, Property Tax Administrative Rules

Please refer to the Idaho Administrative Bulletin, **July 4, 2012, Volume 12-7**, for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

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, 2012 -- July 4, 2012

*(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, 2012 that have not been
adopted as final rules and all rulemakings being promulgated after March 29, 2012 - Sine Die.)*

IDAPA 02 -- DEPARTMENT OF AGRICULTURE

02.02.14, Rules for Weights and Measures

02-0214-1201 Proposed Rulemaking, Bulletin Vol. 12-7

02.03.03, Rules Governing Pesticide and Chemigation Use and Application

02-0303-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

02.04.08, Rules Governing Grade A Milk and Milk Products

02-0408-1201 Temporary and Proposed Rulemaking, Bulletin Vol. 12-5 (eff. 6-1-12)T

02.04.14, Rules Governing Dairy Waste

02-0414-0902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-10

02.06.02, Rules Pertaining to the Idaho Commercial Feed Law

02-0602-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6

02-0602-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7 - Second Notice

02.06.12, Rules Pertaining to the Idaho Fertilizer Law

02-0612-1201 Proposed Rulemaking, Bulletin Vol. 12-7

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 - Negotiated Rulemaking, Bulletin Vol. 08-9

02-0613-0801 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 08-10

02-0613-0801 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 08-11

02-0613-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

02.06.14, Rules Pertaining to Annual Bluegrass (*Poa annua*)

02-0614-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

02.06.16, Rules Governing Honey Standards

02-0616-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

02.06.31, Noxious Weed Free Forage and Straw Certification Rules

02-0631-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

02.06.33, Organic Food Products Rules

02-0633-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

02.06.35, Rules Concerning Rough Bluegrass (*Poa trivialis*)

02-0635-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001

02-0641-1201 Proposed Rulemaking, Bulletin Vol. 12-7

IDAPA 07 -- DIVISION OF BUILDING SAFETY

07.01.06, Rules Governing the Use of National Electrical Code

07-0106-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-4

07.02.06, Rules Concerning Uniform Plumbing Code

07-0206-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5

07.03.01, Rules of Building Safety

- 07-0301-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-3
07-0301-1201 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6 (Second Notice)

07.03.12, Rules Governing Manufactured or Mobile Home Installations

- 07-0312-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-4

07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

- 07-0701-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-5

***IDAPA 08 -- IDAHO STATE BOARD OF EDUCATION
AND STATE DEPARTMENT OF EDUCATION******08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools***

- 08-0111-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-7

08.02.02, Rules Governing Uniformity

- 08-0202-1201** Proposed Rulemaking, Bulletin Vol. 12-7

08.02.03, Rules Governing Thoroughness

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